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British Virgin Islands

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Contents

		Paragraphs	Page
I.	Background information	1–3	3
II.	Constitutional, political and legal issues	4–10	3
III.	Budget	11–14	4
IV.	Economy	15–44	5
	A. General	15–18	5
	B. Agriculture and fisheries	19–21	5
	C. Manufacturing/industry	22–23	6
	D. Tourism	24–26	6
	E. Finance	27–31	7
	F. Transport and communications	32–41	8
	G. Water system, sanitation system and utilities	42–44	9
V.	Social conditions	45–62	9
	A. General	45	9
	B. Labour	46–47	9
	C. Education	48–50	10

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	D. Public health	51–54	10
	E. Immigration	55–58	11
	F. Crime	59–62	11
VI.	Environment	63–65	12
VII.	Relations with international organizations and entities	66–68	12
	A. United Nations system	66	12
	B. Regional organizations and entities	67–68	12
VIII.	Future status of the Territory	69–78	13
	A. Position of the territorial Government	69–70	13
	B. Position of the administering Power	71–77	13
	C. Consideration by the General Assembly	78	14

I. Background information

1. The British Virgin Islands[1] are located about 60 miles east of Puerto Rico and 15 miles from the United States Virgin Islands. **The Territory** comprises a group of 50 islands **that** form an archipelago with the United States Virgin Islands. **Twenty of the islands are inhabited.** The capital city, Road Town, is located on the largest island, Tortola (21.5 square miles), on which some 80 per cent of the population live. The other major islands are Virgin Gorda (8.5 square miles), Anegada (15.2 square miles) and Jost Van Dyke (3.2 square miles).

2. The earliest inhabitants of the British Virgin Islands were the Arawaks and the Caribs. The islands were sighted in 1492 by Christopher Columbus. The Dutch established the first permanent European community on the islands in 1648. In 1666, British planters took control of the islands and the Territory attained the status of a British colony. The planters were granted civil government, constitutional courts, an elected House of Assembly and a partly nominated Legislative Council, which first met in 1772. In 1872, the islands became part of the Federation of the Leeward Islands. In the 1930s and 1940s, British Virgin Islanders demanded greater self-governance, which led to the Territory becoming a separately administered colony in 1956.

3. **The latest census was conducted in April and May 2001 and the population projection for this count is about 23,000 residents and over 8,000 households (the official results are not available yet), compared with 16,700 in 1991.**[2] Approximately 90 per cent of British Virgin Islanders are of African descent, the remainder being of European or another origin. The population is predominantly Christian, with 86 per cent professing a Protestant creed and 6 per cent Roman Catholicism. The population growth rate in **2001** was **2.22** per cent. Immigration continues to be an important source of population growth; estimated net migration **rate** for **2001** was **11.39 migrants per 1,000 inhabitants.**

II. Constitutional, political and legal issues

4. The British Virgin Islands is a **Non-Self-Governing Territory** (British Overseas Territory) **under the administration of the United Kingdom of Great Britain and Northern Ireland. The Constitution**, formulated with local input, **was adopted in 1967 and amended in 1976.** Under the Constitution, the administering Power appoints a Governor with responsibilities for defence, internal security, external affairs, public service and the administration of the courts; the Governor retains legislative powers as necessary to exercise special responsibilities. The Executive Council **consists of** the Chief Minister **(appointed by the Governor from among the elected members of the Legislative Council) who has responsibility for finance,** three ministers (appointed by the Governor on the advice of the Chief Minister) **and one ex officio member (the Attorney-General). The Governor is the Chairman of the Executive Council** and must consult with it in the exercise of his duties. The Legislative Council consists of a Speaker, the Attorney-General as an ex officio member and 13 elected members **(nine members from one-member electoral districts and four members representing the Territory "at large").**

5. **There are four political parties in the British Virgin Islands: the Virgin Islands Party (VIP); the United Party (UP); the Concerned Citizens' Movement (CCM), which was founded in 1994 as a successor to the Independent People's Movement, and the National Democratic Party (NDP), founded in 1998.**[3] General elections must be held at least once every four years. Candidates are elected based on a simple majority. Persons voting must be 18 years of age or over and have "belonger status". The last election was held in 1999.

6. **The current Governor of the British Virgin Islands, Frank Savage, has been in office since 1998. In February 2002, Tom Macan was appointed Governor for a term of office beginning in October 2002.**[4]

7. **In March 2002, the Legislative Council asked the British Government to appoint a commission to review the Virgin Islands Order 1976 (Constitution). Among other things, the Chief Minister asked the British Government to consider the procedure for the conferment of belonger status, the introduction of one more ministerial position and the addition of a human rights chapter to the Constitution.**[5] **Most of the recommendations presented by the previous constitutional review**

(1993) had been incorporated through constitutional amendments between 1994 and 2000 (see also A/AC.109/2001/8, paras. 16 and 17).

8. The law of the British Virgin Islands is the common law of England and locally enacted legislation. Justice is administered by the Eastern Caribbean Supreme Court, based in Saint Lucia, which consists of two divisions: the High Court of Justice and the Court of Appeal. There are two resident High Court Judges, and a visiting Court of Appeal which is comprised of the Chief Justice and two Judges of Appeal and which sits twice a year in the Territory. There is also a Magistrates Court, which hears prescribed civil and criminal cases, a Juvenile Court and a Court of Summary Jurisdiction. The United Kingdom Privy Council is the final court of appeal.

9. In August 2001, the Government established a permanent Law Reform Commission aimed at the systematic development and reforms of the Territory's laws in order to bring them in line with emerging trends in local and international legal fields. The Commission is to submit annual reports to the Legislative Council. It was expected to be fully operational by the end of March 2002.

10. In March 1999, the Government of the United Kingdom of Great Britain and Northern Ireland issued a White Paper on the relationship between the United Kingdom and its Overseas Territories, entitled "Partnership for progress and prosperity: Britain and the Overseas Territories" (for the text, see A/AC.109/1999/1 and Corr.1, annex; for key recommendations, see A/AC.109/1999/9, para. 28). The White Paper proposed the extension of British citizenship to the citizens of the Territories; at the same time, it required the Territories to amend their local legislation, in particular on human rights and on the regulation of financial services to meet international standards. The Bill completed a three-step process through the House of Lords in 2001 and completed its third reading in the House of Commons in February 2002. It received Royal Assent on 26 February 2002 and became the British Overseas Territories Act 2002 (A/AC.109/2002/2/Add.1). On 18 March 2002, Baroness Amos stated that the British Government was making arrangements to implement the citizenship provisions, the commencement date of which would be announced no later than 21 May. In this connection, the local press has singled out a provision stating that, under the new law, British Virgin Islanders can obtain British passports which will allow them, among other things, to live and work in the United Kingdom and the European Union without restrictions. At the same time, the acquisition of British citizenship is not mandatory.[6]

III. Budget

11. In December 2001, the Chief Minister gave a budget address for the year 2002 in which he stated that the projected revenue for 2001 had initially been $197 million, but that owing to the negative impact on the economy of the terrorist attacks on the United States, it had been revised downward to $190 million, still representing an increase of approximately $8 million from 2000, or 4 per cent. He said that, in the month of September, the economy "lost $7 million that was never regained". Nevertheless, for the preceding six years the revenue estimates showed a growth of over 100 per cent.

12. For the year 2002, the Government estimated it would collect over $201 million in revenues. It budgeted recurrent expenditures at $156 million, which would yield an expected budget surplus of $45 million. The provisions for funding of capital projects have been made as follows: Loan Funds Approved and Envisaged will receive $77.3 million and contributions (Consolidated fund) will receive $44.045 million, for a total of $121.41 million. These funds are expected to be formed from local sources. The Consolidated Fund balance stood at about $96 million. The Chief Minister noted that the Government was seeking to further improve its cash flow. Therefore, it would not support arbitrary allocations of funds for projects that had not been initiated. The allocations would be authorized by the Minister of Finance, subject to the satisfactory flow of funds and the justification that the projects would be implemented properly.[7]

13. The public debt (that of the central Government), for the period ending 31 December 2001 was estimated to be $49 million, and the national debt (the public debt plus contingent liabilities) was estimated to be $89 million. Contingent liabilities were estimated to be $40 million. Public debt to revenue rate was 28 per cent and public debt to GDP ratio was 17 per cent.

Public debt repayments amount remained at 3 per cent of revenue. As regards the international borrowing criteria mandated by the United Kingdom Government, the Territory was at approximately 70 per cent of its borrowing capacity. The Chief Minister reported that a team from the Foreign and Commonwealth Office had visited the Territory to assess the state of affairs and advance the process of adopting formally the borrowing criteria.

14. Owing to the lack of coordination between the various ministries and departments, the Appropriation Act 2002 (Budget) was adopted only in February 2002, for the first time in six years after the fiscal year had already begun.[8]

IV. Economy

A. General

15. The economy continued its trend of healthy expansion in 2001. The gross domestic product (GDP) for 2001 was $742.3 million, which is $59.5 million or 8.7 per cent more than that of the previous year. The annual rate of inflation for 2000 was 2.8 per cent and the inflation rate for 2001 averaged 3.13 per cent.[9]

16. The Territory's principal trading partners are the United States of America, Trinidad and Tobago, Antigua and Barbuda and the United Kingdom. The Territory's trade balance continued to be positive. Figures for the fourth quarter of 2000 (released in October 2001) showed that the overall balance on transaction grew to $63.44 million, or 65.9 per cent from the same quarter the previous year. Imports outpaced the growth of exports, rising by 8.2 per cent to around $107.8 million, which is considered to be a normal expansion. The growth was led by the tourism and financial services inflows, which expanded significantly by about 24.4 per cent, compared with the same period the previous year. The growth in exports signals the general strength of the British Virgin Islands economy, as both tourism and financial services are counted as exports.

17. In November 2001, the Government announced that it was expecting to spend up to $3 million on initiatives to boost the economy in the light of the expected negative effects following the 11 September terrorist attacks. The financial sector, one of the twin pillars of the economy, was performing at about 85 per cent of its normal capacity. The other twin pillar, tourism, was down by 20 to 30 per cent in comparison with the previous year. A specially appointed committee has been commissioned to design a more effective media campaign for these two leading sectors of the economy. The campaign is expected to cost between $1 and 1.5 million. The Government also considered enhancing project implementation and special measures to stimulate the construction industry.[10]

18. According to the information provided by the administrating Power, the National Integrated Development Strategy has been developed by the Territory in collaboration with various United Nations agencies. The purpose of the Strategy is "to facilitate the development of the economic, social, spatial and environmental objectives in a balanced, integrated and sustainable manner. Some of these objectives include expansion of the national output within the framework of sustainable development, a focus on diversification of the economy into agriculture, fisheries and food production, and decreasing vulnerability in the critical international services industry while increasing the economy's capacity to deal with inflation and debt".

B. Agriculture and fisheries

19. Agriculture contributes 1.5 per cent of GDP and engages 1.9 per cent of the persons in paid employment. Fisheries contribute nearly 3 per cent to GDP. The budget for the Department of Agriculture in 1999 was $1.78 million and $2 million in 2000. The budget for the Department of Conservation and Fishery in 1999 was $865,600 and in 2000 it was $913,000. The main crops produced in the Territory are fruits and vegetables. There is also an active fishing sector and some raising of livestock. The Territory's fishing industry provides for local consumption and export, as well as for fishing activities for tourists. At the same time, there are serious obstacles to developing the agriculture sector, among them a shortage of labour, water and marketing facilities. Food imports account for 18.9 per cent of total import cost. In November 1999, the Government announced that it intended to raise the level of agricultural production through the revision of legislation and policy relating to this sector of the

economy in order to ensure self-sufficiency in agriculture and the reduction of exports.

20. **In December 2001, the British Virgin Islands joined the International Commission for the Conservation of Atlantic Tuna (ICCAT), an intergovernmental fisheries organization responsible for the conservation of tuna and tuna-like species in the Atlantic and adjacent seas. Membership in ICCAT would provide better exploitation of the Territory's high value pelagic stocks and help in export to countries such as the United Kingdom, the United States and Canada. The Territory will also work with ICCAT on collecting scientific data.**[11]

21. **In January 2002, the Ministry of Natural Resources signed a memorandum of understanding with the Canadian province of Nova Scotia. Under this agreement, Nova Scotia and the Island's fisheries will share information and technology in areas such as boat building, equipment, processing and marine management and conservation, which will contribute towards developing the Territory's fishing industry.**[12]

C. Manufacturing/industry

22. Local industry, including mining, manufacturing and construction, **accounts for 9.9** per cent of the GDP and **engages around 21.3 per cent of the employed labour force**. The mining industry consists of the extraction of materials for the construction industry and some salt. Manufacturing, **which provides around 1 per cent of GDP, consists mainly of light industry**; there is one rum distillery, two ice-making factories, a small boat-maker and a few cottage industries. **According to the information provided by the administering Power, the manufacturing industry centres around the "Craft Alive" market and the Hope Estate, East End, Long Look Industrial Compound project. The "Craft Alive", an art and craft market which opened 10 years ago under the auspices of the Department of Trade Investment and Promotion with the assistance of the Department of Tourism, has expanded its operation from two weeks a year during festival time to operating on a daily basis year round.**

23. The construction industry, as measured by imports of construction materials (cement, nails, paints, polyvinyl chloride (PVC) pipe, lumber and steel) **accounts for 6.3 per cent of GDP.** Figures for the **fourth** quarter of **2001** indicated a **34** per cent **increase** in the total value of imported building materials from the **previous quarter from $1.69 million to $2.27 million. However, during the same time there was a 10.9 per cent decline in imports of PVC pipe and a 20.1 per cent drop in cement imports. Steel imports increased by 12.5 per cent, rough lumber by 121.9 per cent, nails by 49 per cent and paints by 37.4 per cent.**

D. Tourism

24. A rich vegetation, unspoiled beaches, yachting marinas and fine coral reefs make the islands a natural tourist destination, and tourism continues to be the most important economic sector for the Territory. Unlike the international financial services, tourism is an important source of employment as well as revenue, as well as a host of other sectors, such as the construction and retail sales sectors.

25. The **fourth** quarter of 2000 showed a substantial increase in tourism. Overnight arrivals were **81,345, an increase of 9,535, or 13.3 per cent from the same quarter in 1999**; the number of tourist nights was **597,550, an increase of 87,060, or 17.7 per cent from the same quarter in 1999**; tourist receipts were **$65.9** million, **which is $7.5 million or 12.8 per cent more compared with the same period the previous year**, and cruise ship visitors totalled **42,267**, compared with **11,030 more cruises, or 36.8 per cent. Despite the increase, the tourism sector of the economy showed signs of a slowdown and the amount of money spent per night in the Territory actually declined 3.7 per cent from the same quarter in 1999.**[13]

26. **The number of cruise ship tourists continued to rise. In November 2001, the Chief Minister reported that the projections for cruise ships visits to the Territory remained robust. From November 2001 to April 2002, approximately 40 ships per month were expected to visit the Islands, bringing over 298,000 visitors. The financial provisions for the tourist industry had been increased significantly in 2001, which allowed the Tourism Board to respond in a timely manner to the challenges triggered by the terrorist attacks of 11 September. The cancellation rate in the wake of the attacks did not exceed 30 per cent. The Board is introducing**

special measures to increase the number of European tourists next year. One of such measures is the launching of a new web site for the Tourism Board and calling on Cable and Wireless as the Territory's Internet supplier to increase its capacity. Among the other initiatives, the Chief Minister cited a plan to improve access to the beaches and the reconstruction and enlargement of the local road network. This includes adding new features in the capital, Road Town, completion of a number of car parks and further development of the "Crafts Alive" project.[14] In December 2001, the Chief Minister stated that the tourist sector had performed well under very difficult circumstances. He highlighted the importance of the development and expansion of land-based tourism as much as possible and announced measures to expand land-based tourism products. In 2001, a new dolphin swim project at the Prospect Reef Resort was approved by the Executive Council. However, this action gave rise to protests from local and international environmental activists.

E. Finance

27. As has been described in previous working papers (see A/AC.109/2000/18 and A/AC.109/2001/8), the provision of international financial services is one of the two pillars (along with tourism) of the British Virgin Islands economy. Fees from these services alone bring in more than half of the Government's revenue. The British Virgin Islands was one of the first Territories to adopt legislation (in the mid-1980s) allowing registration of international business companies and continues to claim about 45 per cent of the world's market. The British Virgin Islands does not tax assets, ensures their privacy and has a well-educated population that enhances the quality of the services and regulation provided.

28. During the period under review, the financial sector continued to grow. According to the Caribbean Development Bank, over 64,000 new international business companies were licensed in the British Virgin Islands during the year 2000, representing an increase of 19 per cent compared with 1999 and bringing the total number of registered international business companies to 368,000. In the mutual fund segment, almost 400 new funds were registered in 2000, bringing the total number of funds registered since the creation of the mutual fund registry in 1998 to over 2,000. In addition, 25 new insurance licences and 21 new trust company licences were issued during 2000. Despite ongoing efforts to attract more insurance and trust companies to the Territory, international business companies still accounted for around 90 per cent of government revenues from financial services. According to the existing local laws, the international business companies are not taxed and are not obliged to disclose the identities of their directors or shareholders, and thus these companies have been particularly singled out by international financial critics. From January to September 2001, the total deposits of all the commercial banks expanded by over 10 per cent and reached $1,056 million.[15]

29. The confidentiality and tax-free qualities of the British Virgin Islands' financial sector had drawn the scrutiny of the Organisation for Economic Cooperation and Development (OECD) and the Financial Action Task Force (FATF). In 2000, the British Virgin Islands had been included in the list of countries and jurisdictions with harmful tax practices. The Government of the Territory, in cooperation with the United Kingdom, undertook certain measures to improve its legislation in order to meet the requirements of the international business community. The Mutual Funds (Amendment) Act 2001 conferred on the Minister of Finance the power to refuse granting a Certificate of Recognition to a private or professional firm, in cases where he determined that it would not be in the interest of mutual fund investors or in the public interest. The Electronic Transaction Act 2001 would facilitate the use of electronic technology. It removed any uncertainty related to the legal effects of information in electronic form or communicated by electronic means and as to the time and place of dispatch and receipt of electronic communications. In December of 2001, the Council replaced the Financial Services Department with the Financial Service Commission, a new autonomous body created to regulate offshore banking and investments.[16]

30. In July 2001, the Executive Council approved an amendment to the Anti-Money Laundering Code of Practice. Under the Code, the Government considers that every entity or person carrying on

financial services business in the British Virgin Islands has a responsibility to ensure that his or its business is conducted in compliance with the relevant regulatory and money-laundering laws, rules and regulations. After the terrorist attacks on the United States on 11 September, the territorial Government expressed its readiness to cooperate in tracking terrorist-related assets. The Chief Minister pledged to "do whatever necessary to ensure that there is no safe hiding place for terrorists" or their assets in the British Virgin Islands.[17]

31. In his budget speech in December 2001, the Chief Minister said that British Virgin Islands strategic policy objective in 2002 was to ensure that the Territory "did not appear on any negative list". In February 2002, the Government of the Territory negotiated and submitted a draft commitment letter to the OECD which represented the British Virgin Islands' position on the principles of transparency and effective exchange of information. In March 2002, OECD gave a written assurance that the British Virgin Islands would not be included on any list of uncooperative jurisdictions.[18]

F. Transport and communications

32. According to the information provided by the administrating Power, the British Virgin Islands has 150 roads, of which 118 or 102.5 kilometres are paved. The number of vehicles registered and licensed in the Territory exceeds 9,500. Construction began on a new bridge to Beef Island. This project had been plagued by problems and, in February 2001, construction on the bridge was halted for a month as the contractor claimed it was owed money by the Government. By March 2002, the new Beef Island Bridge had not yet been officially commissioned into operation, and motorists driving to Beef Island were being directed to use one lane.[19]

33. There are three international airports in the British Virgin Islands with around 15,500 arrivals and departures. Fifteen airlines are coming to the Territory (eight scheduled and seven chartered).

34. The construction of a new terminal in the Beef Island Airport, begun in 2000, has been completed. The airport has been renamed T. B. Lettsome International Airport and the terminal facility was opened in March 2002. This terminal is part of a $65 million project, the largest and costliest single capital project of the British Virgin Islands Government. The new terminal, four times the size of the existing building, has 19 check-in desks and accommodates 300 seats. Work continues on the expansion of the runway, other airside and landside infrastructural developments. The Caribbean Development Bank, the European Union, the European Investment Bank, Scotia Bank, the Social Security Board, Barclays and the Territory's Government are funding the project.[20]

35. The airport runway on Virgin Gorda Island will also be extended in the near future. In September 2001, after years of searching for an acceptable price, the Government approved a resolution to acquire the 38 acres of land on Virgin Gorda owned by Little Dix Bay Hotel.[21]

36. In September 2001, the Controller of Customs announced new procedures for the management of cargo at three major airports. Starting 1 October 2001, the importers were required to land all cargo brought into the Territory at Port Purcell. The new routing procedures came as part of the Customs Reform and Modernization Programme, which started in April 2000.[22]

37. At the beginning of 2002, in order to improve the screening of travellers entering and leaving the islands, the Government acquired a new automated border management system (AiT's enTReX). The contract, valued $1.1 million, envisages that the AiT technology will be installed at inspection points in the country's major air and seaports.

38. In December 2001, the Legislative Council passed a new law which will allow the British Virgin Islands to register merchant ships. This move will bring control of the territorial waters under a single, consolidated law and is expected to become another "revenue generator". The Bill covers all aspects of registration and will be enforced by the Port Authority Board.

39. The British company Cable and Wireless provides basic telephone services in the British Virgin Islands and has been operating as a monopoly there since 1966. Another virtual monopoly, CCT Boatphone has a licence to sell cellular telephones and was competing for mobile Internet service distribution rights on the Territory.[23]

40. **The current contract with Cable and Wireless expires in 2007.** In 2000, the Government took the decision not to renew Cable and Wireless' exclusive licence and to negotiate a competitive market. **In July 2001, the company announced that it was prepared to work with the Government in order to find a suitable model for the liberalization of the local telecommunications industry.** According to press reports, Cable and Wireless has been upgrading its network and provides the Territory with one of the most technologically advanced systems. The British Virgin Islands will also host one of two Caribbean-wide "gateway switches" to support Cable and Wireless' new regional network. A network monitoring centre and a data centre will also be located in the Territory.

41. **In May 2001, the Caribbean Postal Union (CPU) held a meeting in Curaçao which was attended by the Territory's Chief Minister. The Executive Council of CPU agreed that the British Virgin Islands Postal Administration should become a full member and that the annual contribution of $3,000 should be paid for the years 1999, 2000 and 2001.**[24]

G. Water system, sanitation system and utilities

42. **The water supply in the British Virgin Islands is constrained by the twin problems of insufficient production of fresh water and inadequate storage capacity. According to the Minister of Communications and Works, the Territory produces 1.3 million gallons of fresh water daily, mostly in desalination plants, but can only store a two-day supply of water.** Rainwater cisterns are the primary source of water for 80 per cent of the population; the remainder relies on piped water. The shortage of water experienced by the Territory prompted a suggestion of the Legislative Council in May 2001 that the water supplier — Ocean Conversion Ltd. of the British Virgin Islands — should increase its capacity by 200,000 gallons a day.[25]

43. The Territory has an electricity production capacity of 42 million kilowatt hours and a consumption of 39 million kilowatt hours; production comes entirely from fossil-fuelled generators **with an effective generating capacity of 25 megawatts.** The rapid economic growth of the British Virgin Islands has strained its electricity grid and requires additional capacity. The Government undertook a major expansion of its physical plant to cope with current and future needs.

44. **The British Virgin Islands Electricity Corporation (BVIEC) is responsible for the Government's activities related to the development and distribution of power. It is currently completing phase III of a 10-year development programme, which involves the installation of two additional sets of generators. The final portion of financing of the project was authorized in March 2001. In November 2001, the Legislative Council approved a BVIEC loan of $5 million from Scotia Bank for an additional backup generator to combat the plague of electricity blackouts.**

V. Social conditions

A. General

45. Public assistance is provided for those who need it through the Social Security Board, a statutory body which **falls under the Ministry of Finance. It** provides for sickness benefits, maternity benefits, employment injuries, funeral grants and long-term benefits.

B. Labour

46. The labour force is engaged primarily in tourism (26 per cent), Government (20 per cent) and construction (18 per cent). **According to the information covering the year 2001, provided by the administrating Power, the Territory maintains full employment. In November 2001, the Labour Department reported that the size of the labour force was 11,730. Of this number, 4,998 or 42.6 per cent were British Virgin Islanders or belongers; and 57.4 per cent or 6,632 were persons from other countries around the world.**[26]

47. **Until recently, employment conditions and relations between employers and employees in the Territory, as well as the requirement for work permits, were governed by the Labour Code Ordinance (1975). According to the administrating Power, the Ordinance has not been amended since its enactment and is outdated in many respects. In**

1998, the Government introduced to the Legislative Council a new Labour Code Act that received its first reading in August 2001. The new Bill clarifies administrative arrangements, improves dispute settlement procedures and upgrades basic conditions of employment for long-term employees. The Code calls among other things for employer/employee disputes to be settled through arbitration rather than courts, and envisages a five-year limit on work permits for non-belongers. The Minister of Natural Resources and Labour has said that work permits of employees deemed "key" may be renewed beyond the five-year limit. In January 2002, the Chief Minister clarified that persons who are granted certificates of residence are legally exempted from having to obtain a work permit. In March 2002, the Minister of Natural Resources and Labour further explained that the measure of the five-year limitation on work permits was needed in order to cope with situations where persons on work permits eventually acquired residence status (see also para. 56). During the last five years, a total of 802 work permits were issued and 43 per cent of the permit holders (334 persons) decided to stay in the Territory.[27]

C. Education

48. Education is free and compulsory in the Territory between the ages of 5 and 11; secondary education **(from 12 to 16)** is also free. There are 18 public and 11 private primary schools on Tortola, Anegada, Virgin Gorda and Jost Van Dyke. There are three high schools (one private and two public) and a community college at Road Town. Secondary education is available to the General Certificate of Education "A" Level. Higher education is provided by the University of the West Indies. The H. Lavity Stoutt Community College offers associate degree courses and technical education.

49. **In September 2001, the Government introduced a number of new initiatives for the 2001/2002 school years, including improvement of school facilities, and an increase in scholarship funds for students who successfully complete their secondary education. Furthermore, new literacy and intervention programmes, such as homework help, have been introduced in many districts. The Government also approved financing for a new alternative education programme, a national curriculum development, a new five-year educational plan, and an educational television show to start later in 2002. In an effort to encourage computer literacy and broaden local opportunities, the Chief Minister announced, in January 2001, a ban on duties on computers imported for educational purposes.**[28]

50. **In October 2001, the Territory's college, H. Lavity Stoutt Community College, launched a new distance education programme which would allow students to continue education beyond the levels of certification offered by the college.**[29]

D. Public health

51. The territorial Government is the major provider and financier of health services. Primary health care in the Territory is provided by one hospital (Peebles Hospital), one health centre in Road Town and a network of eight district clinics, as well as two satellite clinics in Brewers Bay and Sea Cow Bay. Private health care is provided by one private hospital, two private dental surgeries, two private medical complexes and nine private physicians.

52. **The construction of a new hospital on Tortola, which would cost roughly $50 million, began in September 2001. The financing of the project comes through loans from the Bank of Nova Scotia and has already been approved by the Legislative Council. The hospital will have 70 to 80 beds and is scheduled to be completed in 2004.**[30]

53. **According to the Health Department, between June 1985 and September 2001, there were a total of 31 cases of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) registered in the Territory, of which 21 were men. As of December 2001, 20 of those 31 cases had perished, 8 were still alive and the rest were unaccounted for. A fund managed by the local Red Cross was established in December 2001 to bring HIV/AIDS prevention awareness education to the public as well as to help needy AIDS patients.**[31]

54. The risk of a dengue fever epidemic continues to rise in the Caribbean, according to experts at the Pan American Health Organization and the Centers for Disease Control and Prevention in Puerto Rico. There is no vaccine against the disease, which is carried by mosquitoes. Health officials have been urging the

Territory's residents to take preventive measures, in particular to protect themselves from mosquitoes to avoid the disease. **By November 2001, 52 cases of dengue fever had been reported, an increase of 240 per cent over the previous year.**[32]

E. Immigration

55. **The Overseas Territory Bill, which will grant British citizenship to nationals of Great Britain's Overseas Territories, was given Royal Assent on 26 February 2002 (see also para. 10).**

56. **In the beginning of 2001,** the British Virgin Islands altered the terms of its "belonger status". This status is a local immigration status that confers such rights as the right to vote, to hold elected office, to own property without needing a licence, to reside in the Territory without immigration restrictions and to work without a permit. The amendments affected in particular the transmission of belonger status across generations. Children born outside the Territory of a parent who is a belonger by birth may receive belonger status, as is the case for children born in the British Virgin Islands of parents who, although not belongers, are considered to be settled in the Territory. The amendments also created a new category of belonger by registration. This applies to people born of belonger parents outside the Territory who may become belongers if their birth is registered within a limited period of time. This provision was particularly important to the British Virgin Islanders now residing in the United States Virgin Islands. Finally, a provision that automatically conferred belonger status on a woman who married a male belonger, but not vice versa, was revoked. The provision was deemed to be discriminatory and also presented opportunities for abuse, as "marriages of convenience" were arranged allowing non-belonger women to attain belonger status in exchange for financial reward. **The new rule prevents women who marry a belonger from automatically becoming belongers themselves. They have to apply for belonger status according to the standard procedure.**[33]

57. A controversial law prohibiting the free entry into the British Virgin Islands of Rastafarians and "hippies" remains on the books. **In April 2001, the Legislative Council passed an anti-discrimination bill prohibiting discrimination on the basis of race, colour, religion or country of origin; however, it did not repeal the Rasta Law.**[34] **In June 2001, the Council approved the Adoption of Children (Amendment) Act 2001, which removes the prohibition against the adoption of children who are not British subjects.**

58. **In January 2002, the Chief Minister announced that nationals of several other Caribbean countries, such as Cuba, Jamaica and Saint Vincent and the Grenadines, might soon require visas to enter the British Virgin Islands. There is currently a visa requirement for nationals of the Dominican Republic, Haiti and Guyana which was imposed in order to control the flow of immigrants.**[35]

F. Crime

59. The Royal Virgin Islands Police Force maintains three stations on Tortola and one each on Virgin Gorda, Anegada and Jost Van Dyke. The total size of the force is **186** officers. **In December 2001, the Commissioner of Police reported that the Police Force maintained a detection rate of 60 per cent for the year 2001 (in 1992 it was 35 per cent). At the same time, over the past 10 years, the incidence and sophistication of serious crimes have been increasing steadily. According to the Commissioner, over 1,900 crimes were committed in 2001. Since March 2001, the Police Force has been fighting a new crime wave.**[36] **In August 2001, the Chief Minister announced an increase in funding to modernize the Police Force. Funding for the current year was increased by $1.1 million and will increase by $2 million each year for the next five years. By February 2002, the crime rate on Virgin Gorda had dropped because of a new police programme that borrowed officers from Tortola. The Programme started early in 2001 after a rise in the numbers of burglaries in certain areas of that island.**[37]

60. **In September 2001, a five-year prison report (1995-1999) was released to the Legislative Council. According to the report, in 1999, there were 48 prisoners jailed in the Territory, of whom 12 were the Territory's nationals. All the prisoners are classified into one of four levels of security. The prison had 47 employees in 1999, of whom 34 were officers. The officers earn from $11,412 to $17,148 a year with full medical and dental benefits. Officers work in three shifts covering 24 hours.**[38]

61. **According to the 1998-1999 annual report of the Caribbean Financial Action Task Force (released in 2001), the British Virgin Islands are becoming an increasingly important location on the Caribbean trans-shipment corridor for trafficking of cocaine between the producer countries of the South and the consumer countries of the North. The report considers that the production of drugs in the Territory itself is limited to the cultivation of marijuana on a small scale. With respect to the drug-related money-laundering, the report notes that, given the robust financial activity in the country, it is possible that incidences of money-laundering do occur.**[39]

62. **In February 2002, the National Drug Advisory Council presented its annual report to the Executive Council, which indicated increasing drug use among school children. The two controlled substances most frequently consumed are alcohol and marijuana. The Executive Council suggested sending copies of the report to local schools, and elaborating on the enforcement of the legal age for the consumption of alcohol. The Council intends to develop requirements for businesses to observe the legal age for the use of alcohol, not to expose their underage employees to alcohol and to forbid selling alcohol to minors. The Executive Council mandated the National Drug Advisory Council to develop a long-term national drug awareness campaign.**[40]

VI. Environment

63. Like many Caribbean Territories, the British Virgin Islands is hit by seasonal hurricanes. The Territory's Government undertakes several programmes to minimize the damage caused during hurricane season and maintains an Office of Disaster Preparedness and a National Emergency Operations Centre.

64. **In December 2001, two new seismographs were installed in the Territory, a temporary placement on Virgin Gorda, and one permanent machine in the Office of Disaster Preparedness. Eventually the Office of Disaster Preparedness plans to have three of the devices spread all around the Territory.**[41]

65. **The Department for Environment, Food and Rural Affairs, the University of Wales and the Marine Conservation Society announced in November 2001 a three-year, £145,000 project to investigate the exploitation of the endangered marine turtle population in the Caribbean overseas territories, including the British Virgin Islands. Despite a ban on all international trade in marine turtle products under the Convention on International Trade on Endangered Species in 1977, tortoiseshell items continue to be illegally traded in the Caribbean, where unsuspecting tourists provide the main market. The project aims to work with local expertise and to help establish long-term research programmes in each involved Territory. Through exhaustive field surveys and genetic stock analysis, the team will assess the status of the marine turtle population at nesting beaches and the turtle's marine foraging grounds. It will also evaluate legal and illegal turtle harvests through socio-economic surveys. Regulated turtle fisheries are currently allowed in the British Virgin Islands.**[42]

VII. Relations with international organizations and entities

A. United Nations system

66. The Territory enjoys associate membership in the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the Economic Commission for Latin America and the Caribbean (ECLAC). The Territory also receives some funds from the United Nations Development Programme (UNDP) in implementing its country cooperation framework.

B. Regional organizations and entities

67. The Territory is an associate member of the Caribbean Community (CARICOM), whose goal is to promote closer political and economic integration among Caribbean States, and the Organization of Eastern Caribbean States (OECS). Because of its relatively high level of economic development, the Territory is being pressured to become a full member and to open its labour market to OECS workers. It is a borrowing member of the Caribbean Development Bank. It is also a signatory to the Lomé Convention, which provides for some development assistance.

68. In February 2002, the British Virgin Islands hosted a conference entitled "Demand Reduction, Education, Treatment and Legal Issues, What's Working, What's Not Working". The conference was sponsored by the Foreign and Commonwealth Office's Good Government Funds and was organized by National Drug Coordinators from the United Kingdom, in order to tackle the scourge of illegal drugs plaguing the Overseas Territories. The conference was held with the support of the Territory's National Drug Advisory Council and the Community Agency on Drugs and Addiction. The aim of the conference was mainly to develop recommendations for dealing with the problem. Participating Overseas Territories agreed to establish links with regional agencies in order to benefit from more resources in information and education, treatment, policing and supply and demand reduction.[43]

VIII. Future status of the Territory

A. Position of the territorial Government

69. According to information received from the administering Power, on 9 September 1998, the Government of the British Virgin Islands and the Government of the United Kingdom signed a "Memorandum of Cooperation and Partnership". In that document, the territorial Government stated its objective to be the achievement of economic independence; the administering Power stated that it shared that objective and that it remained committed to a policy of assisting its Overseas Territories to attain full independence when and if it was the clearly and constitutionally expressed wish of the people.

70. In June 2001, the Government appointed a committee to look into the cost, obligations and liabilities of independence, such as the creation of a foreign ministry, the establishment of embassies and the requirements arising from international treaties and conventions. This exercise was undertaken to implement one of 30 other proposals for constitutional reform presented in the 1993 Report of the Constitutional Commissioners. The committee is not supposed to make any recommendations whether the Territory should become independent. The question of independence is to be decided by the country's voters either through referendum or by electing a party committed to independence. The committee was expected to report to the Government by 30 September 2001.[44]

B. Position of the administering Power

71. On 8 October 2001, the representative of the United Kingdom made a statement before the Fourth Committee (see A/C.4/56/SR.3) in which she welcomed the opportunity to present the position of her Government, as an administering Power, and reported on "further progress made towards the modernization and development of the relationship between the United Kingdom and its Overseas Territories".

72. The United Kingdom representative said that the third meeting of the Overseas Territories Consultative Committee had been held in London in September 2001. The meeting had been hosted by Baroness Amos, who had been appointed Foreign Office Minister for the Overseas Territories in June 2001. The Consultative Committee provided a forum for structured political dialogue and exchange of views between the elected representatives of the Overseas Territories and Her Majesty's Government. The meeting was an opportunity to continue dialogue on the management of public affairs and future development of the Overseas Territories, and enabled Ministers and the Governments of Overseas Territories to consult on matters such as the process of constitutional review and human rights issues arising from the United Kingdom's international commitments.

73. The representative of the United Kingdom said that the United Kingdom's partnership with her Overseas Territories continued to evolve and progress. On 21 June, the Government had introduced to Parliament the British Overseas Bill, which would grant British citizenship, with right of abode in the United Kingdom, to British Dependent Territories citizens from 13 of the United Kingdom's 14 Overseas Territories in fulfilment of a commitment made in the 1999 White Paper on the relationship between the United Kingdom and the Overseas Territories. The bill would also formally change the nomenclature from "dependent" to "overseas" territory to reflect more accurately the nature of the relationship. The United Kingdom and

most Overseas Territories adopted an Environment Charter on 26 September. That set out 10 guiding principles which express the key environmental commitments that the international community has adopted. Those (guiding principles) were followed by specific commitments on the part of the United Kingdom and Overseas Territories' Governments, indicating how they would work in partnership for the benefit of the environment. It was a good example, the representative of the United Kingdom said, of how progress could be made working together in an area of mutual interest, which was critical to the future prosperity, well-being and even survival of many of the Overseas Territories and their communities.

74. The representative of the United Kingdom pointed out that, as the record showed, for the United Kingdom, the wishes of the peoples concerned, exercised in accordance with the other principles set out in the Charter of the United Nations and in other international treaties, were of paramount importance. The relationship of the United Kingdom with the Territories continued to be based on the following fundamental principles: self-determination; mutual obligations; freedom for the Territories to run their affairs to the greatest degree possible; and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. The representative of the United Kingdom said she was sure the Committee recognized the basic commonality of approach between the British Government and the Committee.

75. Nevertheless, she stated, it was a pity that, while there was so much in common in their approaches, that was not always properly reflected in all relevant resolutions, in particular of the Special Committee on decolonization. The United Kingdom welcomed the fact that the annual omnibus resolution stated that "... in the decolonization process there is no alternative to the principle of self-determination". The United Kingdom therefore regretted that the Committee of 24 continued only to apply that principle selectively. This principle was enshrined in the Charter of the United Nations and the International Covenant on Civil and Political Rights.

76. The United Kingdom, she stated, would continue to work to improve its cooperation with the Committee of 24. A representative of the United Kingdom attended the regional seminar of the Special Committee in Havana in 2001.

77. The United Kingdom welcomed the efforts made by the Committee of 24 begun under the constructive leadership of Ambassador Peter Donigi (Papua New Guinea), to pursue informal dialogue with the administering Powers with a view to the possible future removal of the Territories from the Committee's list. Careful preparations would be necessary before the United Kingdom could expect substantive progress to be made but the United Kingdom remained ready to cooperate with the Committee in those efforts.

C. Consideration by the General Assembly

78. On **10 December 2001**, the General Assembly adopted, without a vote, resolution **56/72 B**, section IV of which concerns the British Virgin Islands.

Notes

[1] Information contained in the present working paper has been derived from published material and from material provided by the administering Power under Article 73*e* of the Charter of the United Nations.

[2] *The Island Sun*, 29 June 2001.

[3] *Europa World Yearbook 2001*, 42nd ed.

[4] ***The Island Sun*, 15 February 2002.**

[5] **Ibid., 8 March 2002.**

[6] *Europa World Yearbook 2001*, 42nd ed.; *Press Release "Baroness Amos and Citizenship", St. Helena Herald*, 22 March 2002.

[7] ***The Island Sun*, 22 December 2001.**

[8] **Ibid., 8 February 2002.**

[9] **Ibid., 22 December 2001.**

[10] ***The Island Sun*, 24 November 2001.**

[11] **Ibid., 6 December 2001.**

[12] ***The BVI Beacon*, 31 January 2002.**

[13] Ibid., 27 September 2001.

[14] **Ibid., 20 December 2001.**

[15] ***The Island Sun*, 4 October 2001.**

[16] Ibid., 1 June and 22 December 2001; *The BVI Beacon*, 20 December 2001.

[17] *The BVI Beacon*, 20 December 2001; ibid., 27 July 2001.

[18] www.oecd.org, "Tax Haven Update"; *The Island Sun*, 8 March 2002.

[19] *The Island Sun*, 15 March 2002.

[20] Ibid.

[21] *The BVI Beacon*, 20 December 2001.

[22] *The Island Sun*, 5 October 2001.

[23] Ibid., 8 December 2001.

[24] Ibid., 19 May 2001.

[25] *The BVI Beacon*, 20 December 2001.

[26] *The Island Sun*, 24 November 2001.

[27] *The BVI Beacon*, 20 December 2001; *The Island Sun*, 19 January and 1 March 2002.

[28] *The Island Sun*, 14 September 2001 and 8 February 2002; *The BVI Beacon*, 20 December 2001.

[29] *The BVI Beacon*, 12 October 2001.

[30] *The Island Sun*, 14 September 2001.

[31] *The BVI Beacon*, 29 November 2001; *The Island Sun*, 12 January 2002.

[32] *The BVI Beacon*, 29 November 2001; *The Island Sun*, 3 June 2000.

[33] *The BVI Beacon*, 2 November 2000 and 20 December 2001.

[34] Ibid., 20 December 2001.

[35] *The Island Sun*, 11 January 2002.

[36] Ibid., 1 December 2001.

[37] *The BVI Beacon*, 14 February 2002.

[38] Ibid.

[39] www.oecd.org//fatf/ctry-orgpages/cctry-bvi_en.htm.

[40] *The Island Sun*, 8 February 2002.

[41] Ibid., 6 December 2001.

[42] *The Island Sun*, 24 November 2001.

[43] *The BVI Beacon*, 20 December 2001; *The Island Sun*, 1 February 2002.

[44] *The BVI Beacon*, 14 June 2001.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Western Sahara

Working paper prepared by the Secretariat*

Contents

		Paragraphs	Page
I.	Report and good offices of the Secretary-General	1–47	2
II.	Consideration by the Security Council	48–52	7
III.	Consideration by the General Assembly	53–56	8

* The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

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I. Report and good offices of the Secretary-General

1. Pursuant to General Assembly resolution 55/141 on the question of Western Sahara, adopted on 8 December 2000, the Secretary-General submitted to the General Assembly at its fifty-sixth session a report on the question of Western Sahara dated 9 July 2001 (A/56/159). The report covered the period from 31 August 2000 to 30 June 2001 and reviewed the action taken by the Secretary-General in the exercise of his good offices with the parties concerned.

2. During the period under review, the Secretary-General submitted several reports to the Security Council on the situation concerning Western Sahara (S/2001/398, S/2001/613, S/2002/41 and S/2002/178), pursuant to Security Council resolutions 1342 (2001) of 27 February 2001, 1349 (2001) of 27 April 2001, 1359 (2001) of 29 June 2001 and 1380 (2001) of 27 November 2001.

3. On 27 February 2001, the Security Council adopted resolution 1342 (2001), by which it decided to extend the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 30 April 2001, with the expectation that the parties, under the auspices of the Personal Envoy of the Secretary-General, James A. Baker III, would continue to try to resolve the multiple problems relating to the implementation of the settlement plan (see S/21360 and S/22464 and Corr.1) and try to agree upon a mutually acceptable political solution to their dispute over Western Sahara. The resolution requested the Secretary-General to provide an assessment of the situation before the end of the mandate period.

4. Pursuant to resolution 1342 (2001), the Secretary-General submitted to the Security Council, on 24 April 2001, a report (S/2001/398) in which he informed the Council that, during the reporting period, his Personal Envoy had consulted separately with representatives of both parties, some members of the Council and representatives of MINURSO and the Secretariat in his efforts to assist the parties to find an early, durable and agreed resolution to their dispute over Western Sahara.

5. On the military side, following the passage of the Paris-Dakar rally through the Territory, restrictions imposed by the Frente Popular para la Liberación de Saguía el-Hamra y del Río de Oro (Frente POLISARIO) on the movements of MINURSO military observers had remained in effect. On 15 March 2001, MINURSO was informed by the Moroccan military authorities of plans to begin construction of an asphalted road in the south-western corner of Western Sahara, across the 5-kilometre buffer strip and into Mauritania. After intervention by the Special Representative of the Secretary-General and MINURSO's military commander, work on the road was not started.

6. With regard to the Saharan refugees in the Tindouf camps, the reduction of basic assistance due to the financial constraints faced by the Office of the United Nations High Commissioner for Refugees (UNHCR) had had a negative impact on the beneficiaries in the camps, especially the vulnerable groups. UNHCR was monitoring the overall situation and prioritizing its assistance programme to focus more on life-sustaining activities, especially for the vulnerable refugees.

7. The Secretary-General concluded that, although there had been no progress towards overcoming the obstacles to the implementation of the settlement plan, there had been substantial progress towards determining whether the Government of Morocco, as the administrative Power in Western Sahara, was prepared to offer or support some devolution of authority for the Territory. Because of that progress, the Secretary-General recommended that MINURSO's mandate be extended for two months, until 30 June 2001, so that the Personal Envoy could consult further with the parties, either separately or at a meeting of the parties, or both, concerning both a possible devolution of authority as described above and a possible solution to the problems involved in the implementation of the settlement plan.

8. On 27 April 2001, the Security Council adopted resolution 1349 (2001), by which it decided to extend the mandate of MINURSO until 30 June 2001, with the expectation that the parties, under the auspices of the Personal Envoy of the Secretary-General, would continue to try to resolve the multiple problems relating to the implementation of the settlement plan and to agree upon a mutually acceptable political solution to their dispute over Western Sahara. The resolution requested the Secretary-General to provide an assessment of the situation before the end of the mandate period.

9. Pursuant to resolution 1349 (2001), on 20 June 2001 the Secretary-General submitted a report to the Security Council in which he informed the Council that, on 5 May 2001, his Personal Envoy had presented to the Algerian Government a draft "Framework agreement on the status of Western Sahara" (S/2001/613, annex I), which he was confident that the Kingdom of Morocco would support. President Bouteflika had subsequently addressed letters to the Secretary-General and to his Personal Envoy, along with a memorandum containing Algeria's views on the proposed framework agreement, which were attached to the report of the Secretary-General (ibid., annex II, enclosure). The Security Council also had the opportunity to review, in the same report, an analysis of that memorandum prepared by the Secretariat (ibid., annex III).

10. The Council was further informed that, on 5 May 2001, the Personal Envoy had presented the proposed framework agreement to Secretary-General Mohamed Abdelaziz of the Frente POLISARIO, who had indicated that anything other than independence meant integration with Morocco and that he did not want to consider or discuss the framework proposal. Subsequently, the Frente POLISARIO had delivered letters to the Secretary-General and to his Personal Envoy along with official proposals aimed at overcoming the obstacles preventing the implementation of the settlement plan (ibid., annex IV). An analysis of the Frente POLISARIO proposals, prepared by the Secretariat, was also annexed to the Secretary-General's report (ibid., annex V).

11. In paragraphs 20 to 42 of document S/2001/613 the Secretary-General provided an assessment of the problems in the implementation of the settlement plan since its adoption in 1991. While he pointed out that he had previously provided such a detailed account in his report of 17 February 2000 (S/2000/131), he reiterated that, with the exception of the ceasefire, none of the plan's main provisions had been fully implemented because of fundamental differences between the parties over its interpretation and, in particular, because the cooperation of both parties with the United Nations was required for the plan's implementation (see S/22464, para. 55). The establishment of the electorate body for the referendum had been and remained the most contentious issue and one of the main reasons for the successive deadlocks in MINURSO's work, because of the difficulties in determining who among the Saharans was eligible to take part in the referendum. Throughout the 10 years since the United Nations had undertaken the implementation of the plan, it had tried several times to organize direct talks between the parties, as it was understood that such talks were essential to the achievement of the compromises and understandings necessary for the smooth implementation of the plan. The only time that such direct talks had resulted in substantive discussions between the parties had been in 1997 when, under the auspices of the Personal Envoy of the Secretary-General, they had concluded the Houston agreements (S/1997/742, annex III).

12. The Secretary-General also recalled that after the three rounds of talks in 2000, when the parties had met again under the auspices of the Personal Envoy to come up with solutions to the problems involved in the plan and to try to agree upon a mutually acceptable political solution to their dispute over Western Sahara, Morocco, for the first time, had expressed the wish to engage in a direct dialogue with the Frente POLISARIO, under the auspices of the United Nations, to try to resolve the dispute.

13. Concluding his report, the Secretary-General recalled the three questions that he had asked his Personal Envoy when he had appointed him in 1997 regarding the resolution of the conflict over Western Sahara. Given the history of the United Nations involvement over the past 10 years in the search for an acceptable way to implement the settlement plan, the Personal Envoy had concluded that there were serious doubts as to whether the settlement plan could be implemented in its current form. It was equally doubtful whether adjustments to the plan would resolve the problems, since the endgame would still produce one winner and one loser. Furthermore, any substantial adjustments would require the mutual agreement of the parties and an enforcement mechanism approved by the Security Council.

14. The Secretary-General expressed the hope, shared by his Personal Envoy, that Morocco, the Frente POLISARIO, Algeria and Mauritania would agree to meet over the next five months as parties, either directly or through proximity talks, under the auspices of the Personal Envoy, to discuss with specificity the elements of the proposed framework agreement, which aimed at reaching an early, durable and agreed resolution of the conflict over Western Sahara in a way that did not foreclose self-determination, but indeed

provided for it. He stressed that the proposed framework agreement was not unlike agreements used to address similar situations elsewhere where devolution of authority to the inhabitants of a non-self-governing territory was granted, with the final status to be determined by a referendum. Should the parties agree to discuss a political solution, this would not prejudice their final positions since nothing would be agreed until everything had been agreed. While the discussions on the proposed framework agreement would go on, the settlement plan would not be abandoned, but would be put on hold. Should the Personal Envoy decide to continue the discussions about the proposed framework agreement after the five-month period in order to negotiate such changes as would make it acceptable to Morocco, the Frente POLISARIO, Algeria and Mauritania, it would be the Secretary-General's intention to recommend to the Security Council that MINURSO's mandate be extended to permit time for such negotiations. If, on the other hand, by the end of that period, the Personal Envoy should conclude that it would not be worthwhile to continue with the consultations, the Security Council could decide to review the mandate of MINURSO and consider what further role the Mission could play. For the reasons outlined in the report, the Secretary-General recommended that the mandate of MINURSO be extended for five months, until 30 November 2001.

15. On 29 June 2001, the Security Council adopted resolution 1359 (2001), by which it decided to extend the mandate of MINURSO until 30 November 2001. The Council fully supported the efforts of the Secretary-General to invite all parties to meet directly or through proximity talks, under the auspices of his Personal Envoy, and encouraged them to discuss the draft framework agreement and to negotiate any specific changes they would like to see in it, as well as to discuss any other proposal for a political solution that might be put forward by the parties in order to arrive at a mutually acceptable solution. The Council also affirmed that, while the discussions referred to above continued, the official proposals submitted by the Frente POLISARIO to overcome the obstacles preventing implementation of the settlement plan would be considered.

16. Subsequently, the Secretary-General sent a letter dated 12 November 2001 addressed to the President of the Security Council (S/2001/1067), in which he referred to the activities of his Personal Envoy pursuant to Security Council resolution 1359 (2001) of 29 June 2001. The Secretary-General pointed out that his Personal Envoy had been consulting with the parties within the framework of that resolution since its adoption. His Personal Envoy had, however, recently informed the Secretary-General that he would need additional time for those consultations. Accordingly, the Secretary-General proposed that the Council authorize a technical extension of the mandate of MINURSO for a period of two months, through 31 January 2002. The Secretary-General would submit a report on Western Sahara to the Council before that date.

17. The Security Council, by resolution 1380 (2001) of 27 November 2001, took note of the letter of the Secretary-General and extended the mandate of the Mission until 28 February 2002.

18. Pursuant to resolution 1380 (2001), the Secretary-General submitted a report (S/2002/41) covering the period from 20 June 2001 to January 2002, in which he informed the Council that his Personal Envoy had met with the Governments of Algeria and Mauritania and the leadership of the Frente POLISARIO in Pinedale, Wyoming, United States of America, from 27 to 29 August 2001. In his letters of invitation, the Personal Envoy had expressed the hope that Algeria, Mauritania and the Frente POLISARIO would discuss with specificity the elements of the draft framework agreement. The Government of Morocco was not invited to that meeting, since it had indicated that it was prepared to support the draft framework agreement. He advised of his intention to confer with the Government of Morocco about any resulting proposed changes. The Frente POLISARIO's official proposals of 28 May 2001 (S/2001/613, annex IV, enclosure), aimed at overcoming the obstacles to the implementation of the settlement plan, were also considered at the meeting in the presence of the Mauritanian delegation.

19. While commending the Frente POLISARIO for some of its concessions aimed at facilitating the resumption of the implementation of the settlement plan, the Personal Envoy asked for clarifications about some of the proposals. He pointed out that the concurrence of the Government of Morocco would be required in order for some of the proposals to be implemented. He also pointed out that other Frente POLISARIO proposals would require action by the

Security Council under Chapter VII of the Charter of the United Nations.

20. The Personal Envoy met separately with the Algerian delegation to discuss the draft framework agreement. The Algerian delegation reiterated its general views on and objections to the proposed document. It did not engage in a specific and detailed discussion about it as requested by the Personal Envoy, but indicated that it would send him specific clarifications shortly.

21. The Personal Envoy then met again with the Frente POLISARIO delegation to discuss the draft framework agreement. The Mauritanian delegation also attended that meeting. The Frente POLISARIO delegation stated that it did not wish to engage in a specific and detailed discussion on the draft framework agreement. It expressed the view that the provisions of that document would lead to the integration of Western Sahara with Morocco. The delegation nevertheless promised to provide the Personal Envoy with detailed clarifications at a later stage, after conferring with its leadership.

22. The Mauritanian delegation assured the Personal Envoy of its Government's support for any solution to the problem of Western Sahara that would promote peace and stability in the region and have the support of the parties.

23. Subsequently, on 4 October 2001, the Secretary-General of the Frente POLISARIO submitted to the Personal Envoy a memorandum containing the position of the Frente POLISARIO on the draft framework agreement (S/2002/41, annex I).

24. On 7 October, President Bouteflika provided the Personal Envoy with the comments of the Government of Algeria on the draft framework agreement (ibid., annex II).

25. On 31 October, the Personal Envoy forwarded to the Government of Morocco the comments and observations received from the Frente POLISARIO and Algeria, with a request that it provide him with its own comments and observations. At the same time, he advised that, at the Wyoming meeting, he had discussed with the Frente POLISARIO its proposals to overcome the obstacles to the implementation of the settlement plan and had commended it for some of the concessions made. Since the concurrence of the Government of Morocco would be necessary to implement some of those proposals, he asked that the Government revert to him at its earliest convenience, with its own comments and observations on the Frente POLISARIO proposals.

26. On 10 November, the Permanent Representative of Morocco to the United Nations forwarded the observations of his Government on the comments of Algeria and of the Frente POLISARIO concerning the draft framework agreement, as well as on the latter's proposals to overcome the obstacles in the implementation of the settlement plan (ibid., annex III).

27. In the meantime, the Special Representative of the Secretary-General, William Eagleton, continued his consultations with the Government of Morocco and the Frente POLISARIO on the state of affairs and the peace process in Western Sahara and met with Algerian and Mauritanian authorities. On 30 October 2001, the Secretary-General informed the Security Council that he had decided to appoint William L. Swing (United States of America) as his Special Representative for Western Sahara (see S/2001/1041). He assumed his functions on 11 December 2001.

28. Also during this period, on 22 October, in a message addressed to the Secretary-General, the Secretary-General of the Frente POLISARIO expressed his concerns over certain recent developments in Western Sahara, in particular the signing of contracts by Morocco with two foreign oil companies for offshore oil reconnaissance in Western Sahara.

29. On 17 November, demonstrations took place in the town of Smara, resulting in clashes with security forces and the arrest of several dozen demonstrators. Fifteen of the arrested were under detention awaiting trial in Laayoune. Calm was restored the following day. In a letter to the Secretary-General, the Secretary-General of Frente POLISARIO protested these events.

30. In document S/2002/41, the Secretary-General paid tribute to his former Special Representative, William Eagleton, for the efforts he had devoted to the cause of peace in Western Sahara and commended him for the leadership he had displayed and for the dedication and professionalism with which he had undertaken his mission.

31. Pursuant to Security Council resolution 1380 (2001), the Secretary-General submitted a further report (S/2002/178) on 19 February 2002 covering

developments since his report to the Council dated 10 January 2002 (S/2002/41).

32. In document S/2002/178, the Secretary-General informed the Security Council that his Personal Envoy visited Morocco on 24 and 25 January 2002, where he was received twice by His Majesty King Mohammed VI and high-level government officials. The purpose of the visit of the Personal Envoy was to inform the Moroccan authorities of the rejection by Algeria and the Frente POLISARIO of the draft framework agreement, as had been reiterated to him by the President of Algeria during his visit to the James Baker Institute in Houston, Texas, on 2 November 2001, and that, in the view of the Personal Envoy, Algeria and the Frente POLISARIO would be prepared to discuss or negotiate a division of the Territory as a political solution to the dispute over Western Sahara.

33. During his visit to the region, the Personal Envoy also visited MINURSO headquarters in Laayoune, where he met with the newly appointed Special Representative.

34. The Special Representative, for his part, held introductory meetings with Moroccan government authorities at Rabat and with the Frente POLISARIO leadership in the Tindouf area, and also made an introductory visit to Algiers from 14 to 17 January, where he met with President Bouteflika and senior members of the Government of Algeria. While in Algiers, he also met with officials from UNHCR and the World Food Programme, which are implementing humanitarian assistance programmes in the Tindouf refugee camps. On 27 January, he met in Casablanca with a delegation of senior UNHCR officials to discuss cross-border confidence-building measures.

35. Subsequently, on 17 January, the Special Representative visited the Tindouf area, where he met with the Secretary-General of the Frente POLISARIO and other members of the Frente POLISARIO leadership. He had several meetings in Laayoune with the Moroccan Coordinator with MINURSO. On 13 and 14 February, the Special Representative made his introductory visit to Nouakchott, where he met with the President of Mauritania, Maaouya Ould Sid' Ahmed Taya, and other senior government officials, as well as the UNHCR representative in Mauritania.

36. Among other developments, on 29 January 2002, the Legal Counsel responded to a letter addressed to him on 13 November 2001 by the President of the Security Council requesting, on behalf of the members of the Council, his opinion on the legality of contracts for activities in areas offshore Western Sahara concluded by Morocco with foreign oil companies (S/2002/161). In a letter addressed to the Secretary-General dated 1 February 2002, the Permanent Representative of Algeria expressed his views on this issue (A/56/809-S/2002/144). The representative of the Frente POLISARIO in New York addressed two letters on the same subject to the President of the Security Council, on 7 and 18 February, and the Permanent Representative of Morocco expressed his views in his letter dated 8 February addressed to the President of the Security Council (S/2002/153).

37. On 24 December 2001, Saharan detainees started a three-week hunger strike in the Laayoune prison. Following a series of measures taken by Moroccan authorities to reduce prison overcrowding, including the transfer of detainees to other penitentiaries, the hunger strike subsided. Some Saharan detainees resumed their hunger strike on 24 January, but suspended it again within two days.

38. In providing an assessment of progress and problems since the appointment of his Personal Envoy, the Secretary-General pointed out that, despite their assertions to the contrary, the parties had not been willing to fully cooperate with the United Nations either to implement the settlement plan or to try to negotiate a political solution that would bring about an early, durable and agreed resolution of their dispute over Western Sahara.

39. The Secretary-General stated that, as indicated in his report of June 2001 (S/2001/613, para. 52), his Personal Envoy was of the view, on the basis of the assessment of the United Nations work over the past 10 years in trying to implement the settlement plan, including the almost 5 years during which he had been involved, that it was highly unlikely that the settlement plan could be implemented in its present form in such a way as to achieve an early, durable and agreed resolution of the dispute over Western Sahara.

40. The Personal Envoy was of the view that, notwithstanding indications from Morocco of a willingness to negotiate, it was pointless to pursue at that time, except as provided in paragraph 49 of document S/2002/178, any more discussion on the draft framework agreement, as neither the Government of

Algeria nor the Frente POLISARIO was willing to engage in discussing it.

41. The Personal Envoy was also of the view that, notwithstanding indications from Algeria and the Frente POLISARIO of a willingness to negotiate a possible division of the Territory, it was pointless to pursue at that time any such discussions, except in the manner provided in paragraph 50 of document S/2002/178, as the Government of Morocco was unwilling to discuss such an approach, even though it had reached a similar agreement with the Government of Mauritania in 1976. The Secretary-General stated that he concurred with the views of his Personal Envoy as expressed in paragraphs 44, 45 and 46 of document S/2002/178.

42. The Secretary-General indicated that the situation with regard to the future of the peace process in Western Sahara was rather bleak. He and his Personal Envoy believed that there were four options for consideration by the Security Council in the light of that pessimistic but realistic assessment.

43. As a first option, the United Nations could, once again, resume trying to implement the settlement plan, but without requiring the concurrence of both parties before action could be taken. This effort would begin with the appeals process, but, even under this non-consensual approach, the United Nations would in the years ahead face most of the problems and obstacles that it had faced during the past 10 years. Morocco had expressed unwillingness to go forward with the settlement plan; the United Nations might not be able to hold a free and fair referendum whose results would be accepted by both sides; and there would still be no mechanism to enforce the results of the referendum. Under this option, the Identification Commission of MINURSO would be reinforced and, indeed, the overall size of the operation would be increased.

44. As a second option, the Personal Envoy could undertake to revise the draft framework agreement, taking into account the concerns expressed by the parties and others having experience with such documents. However, in this event, the Personal Envoy would not seek the concurrence of the parties, as had been done in the past with respect to the settlement plan and the draft framework agreement. The revised framework agreement would be submitted to the Security Council, and the Council would then present it to the parties on a non-negotiable basis. Should the Council agree to this option, MINURSO could be downsized further.

45. As a third option, the Security Council could ask the Personal Envoy to explore with the parties one final time whether or not they would now be willing to discuss, under his auspices, directly or through proximity talks, a possible division of the Territory, with the understanding that nothing would be decided until everything was decided. Were the Council to choose this option, in the event that the parties were unwilling or unable to agree upon a division of the Territory by 1 November 2002, the Personal Envoy would also be asked thereafter to show the parties a proposal for division of the Territory that would also be presented to the Council. The Council would present this proposal to the parties on a non-negotiable basis. This approach to a political solution would give each party some, but not all, of what it wanted and would follow the precedent, but not necessarily the same territorial arrangements, of the division agreed to in 1976 between Morocco and Mauritania. Were the Council to choose this option, MINURSO could be maintained at its present size, or it could be reduced even more.

46. As a fourth option, the Security Council could decide to terminate MINURSO, thereby recognizing and acknowledging that after more than 11 years and the expenditure of sums of money approaching half a billion dollars, the United Nations was not going to solve the problem of Western Sahara without requiring that one or the other or both of the parties did something that they did not wish to voluntarily agree to do.

47. The Secretary-General pointed out that he was aware that none of the above-mentioned options would appear ideal to all the parties and interested countries. In order to give the Security Council time to decide, he recommend that the mandate of MINURSO be extended for two months, until 30 April 2002.

II. Consideration by the Security Council

48. The Security Council considered the reports of the Secretary-General (S/2000/1029, S/2001/398, S/2001/613, S/2002/41 and S/2002/178).

49. On 27 April 2001, the Security Council, at its 4315th meeting, adopted resolution 1349 (2001), by which the Council decided to extend the mandate of MINURSO until 30 June 2001, with the expectation that the parties, under the auspices of the Secretary-General's Personal Envoy, would continue to try to resolve the multiple problems relating to the implementation of the settlement plan and try to agree upon a mutually acceptable political solution to their dispute over Western Sahara, and also requested the Secretary-General to provide an assessment of the situation before the end of that mandate.

50. On 29 June 2001, the Security Council, at its 4342nd meeting, adopted resolution 1359 (2001), in the operative part of which the Council

> "1. *Decides*, as recommended by the Secretary-General in his report of 20 June 2001, to extend the mandate of MINURSO until 30 November 2001;
>
> "2. *Supports fully* the efforts of the Secretary-General to invite all the parties to meet directly or through proximity talks, under the auspices of his Personal Envoy, and *encourages* the parties to discuss the draft Framework Agreement and to negotiate any specific changes they would like to see in this proposal, as well as to discuss any other proposal for a political solution, which may be put forward by the parties, to arrive at a mutually acceptable agreement;
>
> "3. *Affirms* that while discussions referred to above go on, the official proposals submitted by the Polisario Front to overcome the obstacles preventing implementation of the Settlement Plan will be considered;
>
> "4. *Recalls* that according to the rules of the consultations established by the Personal Envoy nothing would be agreed until everything had been agreed, and therefore *emphasizes* that by engaging in these negotiations the parties will not prejudice their final positions;
>
> "5. *Urges* the parties to solve the problem of the fate of people unaccounted for, and *calls on* the parties to abide by their obligations under international humanitarian law to release without further delay all those held since the start of the conflict;
>
> "6. *Requests* the Secretary-General to provide an assessment of the situation before the end of the present mandate, and, as appropriate, recommendations on the future mandate and composition of MINURSO;
>
> "7. *Decides* to remain seized of the matter."

51. On 27 November 2001, the Security Council, at its 4427th meeting, adopted resolution 1380 (2001), by which the Council decided to extend the mandate of MINURSO until 28 February 2002 and requested the Secretary-General to keep the Council informed of all significant developments in an interim report by 15 January 2002 and to provide an assessment of the situation by 18 February 2002.

52. On 27 February 2002, the Security Council, at its 4480th meeting, adopted resolution 1394 (2002), by which the Council decided, as recommended by the Secretary-General in his report of 19 February 2002, to extend the mandate of MINURSO until 30 April 2002 and to consider actively the options described in his report, addressing this issue in its programme of work, and requested the Secretary-General to provide a report on the situation before the end of that mandate.

III. Consideration by the General Assembly

53. At the fifty-sixth session of the General Assembly, reference was made to the question of Western Sahara by a number of representatives in their statements during the general debate. During the debate on decolonization items in the Fourth Committee, held from 8 to 10 October and on 12 October 2001, a number of Member States made reference to the question of Western Sahara: Algeria, Angola, Chile (speaking on behalf of the States members of the Rio Group), Cuba, the Russian Federation, South Africa, Madagascar, Namibia, Antigua and Barbuda, Mozambique, Egypt, Burkina Faso, Senegal, Morocco, Pakistan, Zimbabwe, Ghana, Uganda, Mauritius, Venezuela, Ethiopia, Ecuador, the United Republic of Tanzania and Gabon.

54. At the 5th meeting of the Fourth Committee, on 10 October 2001, the Committee heard the following petitioners: Antonio López Ortiz, Secretary, Federación Estatal de Instituciones Solidarias con el Pueblo

Saharaui; Felipe Briones Vives, International Association of Jurists for Western Sahara; Ana María Badía Martí, professor of international law in Spain; José Miguel Barragán Cabrera, Deputy, Parliament of the Canary Islands; Francisco José Alonso Rodríguez, President, Human Rights League of Spain; Miguel Mayol i Raynal, Member of the European Parliament; and Ahmed Boukhari, Frente POLISARIO.

55. At its 7th meeting, on 16 October, the Special Political and Decolonization Committee (Fourth Committee) adopted without a vote a draft resolution entitled "Question of Western Sahara" (A/C.4/56/L.2), submitted by the Chairman. After the adoption of the draft resolution statements in explanation of position were made by the representatives of Senegal, Morocco and Algeria (see A/C.4/56/SR.7).

56. On 10 December 2001, the General Assembly, at its 82nd plenary meeting, on the recommendation of the Fourth Committee (see A/56/557, para. 20) adopted resolution 56/69, entitled "Question of Western Sahara", in the operative part of which the Assembly

"1. *Takes note* of the report of the Secretary-General;[1]

"2. *Commends* the Secretary-General and his Personal Envoy for their outstanding efforts and the two parties for the spirit of cooperation they have shown in the support they provide for those efforts;

"3. *Takes note* of the agreements[2] reached between the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Rio de Oro for the implementation of the settlement plan[3] during their private direct talks under the auspices of James Baker III, the Personal Envoy of the Secretary-General, and urges the parties to implement those agreements fully and in good faith;

"4. *Urges* the two parties to continue their cooperation with the Secretary-General and his Personal Envoy, as well as with his Special Representative, and to refrain from undertaking anything that would undermine the implementation of the settlement plan and the agreements reached for its implementation and the continued efforts of the Secretary-General and his Personal Envoy;

"5. *Calls upon* the two parties to cooperate fully with the Secretary-General, his Personal Envoy and his Special Representative in implementing the various phases of the settlement plan and in overcoming the difficulties that remain despite the progress so far achieved;

"6. *Encourages* the parties to continue their discussions under the auspices of the Personal Envoy of the Secretary-General with a view to reaching a mutually acceptable agreement on the question of Western Sahara;

"7. *Urges* the two parties to implement faithfully and loyally the Secretary-General's package of measures relating to the identification of voters and the appeals process;

"8. *Reaffirms* the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan;

"9. *Reiterates its support* for further efforts of the Secretary-General for the organization and supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara that is impartial and free of all constraints, in conformity with Security Council resolutions 658 (1990) and 690 (1991), by which the Council approved the settlement plan for Western Sahara;

"10. *Takes note* of the relevant resolutions of the Security Council, including resolutions 1349 (2001) of 27 April 2001 and 1359 (2001) of 29 June 2001;

"11. *Urges* the parties to solve the problem of the fate of people unaccounted for, and calls on the parties to abide by their obligations under international humanitarian law to release without further delay all those held since the start of the conflict;

"12. *Requests* the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara, bearing in mind the positive ongoing implementation of

[1] A/56/159.
[2] S/1997/742 and Add.1.
[3] See S/21360 and S/22464 and Corr.1.

the settlement plan, and to report thereon to the General Assembly at its fifty-seventh session;

"13. *Invites* the Secretary-General to submit to the General Assembly at its fifty-seventh session a report on the implementation of the present resolution."

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat*

Contents

		Paragraphs	*Page*
I.	General	1–2	3
II.	Political developments	3–11	3
	A. General	3–6	3
	B. General elections	7	4
	C. Recent developments	8–11	4
III.	Economic conditions	12–25	5
	A. General	12	5
	B. Public finance	13–14	5
	C. Trade	15	5
	D. Banking and finance	16–18	5
	E. Transportation, communications and utilities	19–24	6
	F. Tourism	25	7
IV.	Social conditions	26–33	7
	A. Labour	26	7
	B. Human rights and the status of women	27–29	8

* This document is being submitted on 8 May 2002 to allow for inclusion of up-to-date information about the Territory.

02-37431 (E) 220502 230502

C. Social security and welfare 30 8

D. Public health 31 8

E. Public education 32 8

F. Crime and crime prevention 33 8

V. Consideration by the United Nations 34–38 9

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples 34–35 9

B. Special Political and Decolonization Committee (Fourth Committee) 36 9

C. Action by the General Assembly 37–38 9

VI. Future status of the Territory 39–52 10

A. Position of the administering Power 39–41 10

B. Position of the territorial Government 42–45 11

C. Position of the Government of Spain 46–47 12

D. Anglo-Spanish negotiations 48–50 13

E. Anglo-Gibraltarian discussions 51–52 14

I. General[1]

1. Gibraltar is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the United Kingdom of Great Britain and Northern Ireland, the area of Gibraltar is 5.86 square kilometres, and according to Spain it is 4.8 square kilometres.

2. The latest census of Gibraltar, taken on 14 October 1991, assessed the Territory's civilian population at 26,703, of which 20,022 were Gibraltarians, 3,811 other British subjects, 1,798 Moroccans and 1,072 of other nationalities. The estimated population on 31 December 2000 was 27,033. A new census of Gibraltar was taken on 12 November 2001, and the results were still being compiled when the present report was being completed.

II. Political developments

A. General

3. The 1969 Constitution guarantees basic civil and political rights and attributes. It assigns responsibility for local matters to a local Government. The United Kingdom, however, retains power over matters of defence, external affairs and internal security. The Governor, appointed by the sovereign of the United Kingdom, retains the power to rescind laws passed by the legislature. Furthermore, the Constitution reserves for the sovereign full power to make laws from time to time for the peace, order and good government of Gibraltar (including, without prejudice to the generality of the foregoing, laws amending or revoking that Constitution). A new Governor, Mr. David Durie, replaced outgoing Governor Sir Richard Luce in April 2000. A detailed discussion about the 1969 Constitution, including the positions of Spain and the United Kingdom, is contained in the report of the Special Committee to the General Assembly at its twenty-fourth session.[2]

4. Legislative authority is vested in a single House of Assembly consisting of 15 elected members. Executive authority is vested in a Council, which is composed of the Governor, four ex officio members, the Chief Minister and four elected members, and which assists the Governor in an advisory capacity. The Council of Ministers is made up of the Chief Minister, members of the House of Assembly designated by the Chief Minister, and some elected members. The Council of Ministers, which acts as a cabinet, holds responsibility for specific domestic matters, with the Governor retaining the prerogative to intervene in support of his responsibilities for defence and external affairs.

5. The legal system of Gibraltar is based on the common law and statute law of England. Gibraltar retains its own court system, which includes lower courts (Court of First Instance, Coroner's Court, Magistrate's Court), a Court of Appeals and a Supreme Court. The Supreme Court has unlimited jurisdiction to hear and determine any civil or criminal proceedings. At present, it consists of the Chief Justice and an additional judge appointed by the Governor.

6. The United Kingdom's White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories",[3] presented to Parliament in March 1999, spoke of each Territory's need for a constitutional framework to suit its own circumstances and stated that suggestions from Overseas Territory Governments for specific proposals for constitutional change would be considered carefully. In June 1999, Gibraltar's House of Assembly set up a Select Committee on constitutional reform. The Committee held meetings over a period of two years, and on 27 February 2002 the House of Assembly formally adopted a report on constitutional reform. The Chief Minister said that the object of the exercise had been to achieve a Constitution that "maximized self-government", in the language of the United Nations decolonization proposals, and modernized domestic institutions to reflect this. According to the local media, under the proposed changes the European Convention on Human Rights would be incorporated into the Constitution, with a mechanism for the automatic updating of fundamental individual rights; the office of the Governor would undergo changes, as would the House of Assembly, which would have more seats and be known as the Gibraltar Parliament; senior administrative and judicial appointments would no longer be made by the Governor; all crown lands other than those occupied by the Ministry of Defence would revert to the Gibraltar Government; and the

Constitution would refer to the right to self-determination not using "home-grown language" but rather that of United Nations instruments.[4] On 10 April 2002, in response to a question asked in the House of Lords, Baroness Symons stated that any proposals received from the Gibraltar Government would be carefully considered.[5]

B. General elections

7. The last general elections in Gibraltar were held on 10 February 2000. Approximately 80 per cent of the 18,621 registered voters participated. The incumbent Gibraltar Social Democratic Party (GSD) obtained 58.35 per cent of the vote, followed by the Gibraltar Socialist Labour Party/Liberal Party alliance (GSLP/Liberal) with 40.57 per cent, and independent candidates, with 1.08 per cent. Consequently, GSD won eight seats in the Territorial House of Assembly and the GSLP/Liberal alliance seven seats. Peter Caruana, leader of the Gibraltar Social Democratic Party, obtained 8,747 votes and was appointed Chief Minister of Gibraltar. The GSLP/Liberal alliance, led by Joseph Bossano, forms the Opposition.[6]

C. Recent developments

8. The March 1999 United Kingdom White Paper stated that the relationship between the metropolitan Government and its territories must be seen "within the overall framework of modernization and reform, and within Britain's new international role". One of the Government's recommendations concerned the creation of an Overseas Territories Department within the Foreign and Commonwealth Office to ensure better links between the United Kingdom and its Territories. However, the paper indicated that, because Gibraltar was within the European Union as part of the United Kingdom membership under the Treaty of Rome — the only Overseas Territory with that status — it would continue to be handled principally by the Foreign and Commonwealth Office's European Departments, reporting to the Minister responsible for Europe.

9. The British Overseas Territories Bill, which confers British citizenship on British Overseas Territories citizens, completed its parliamentary process in 2001-2002. It received Royal Assent on 26 February 2002 and became the British Overseas Territories Act 2002 (see A/AC.109/2002/2/Add.1). Under the British Nationality Act of 1981, British Overseas Territories citizens from Gibraltar are, upon application, entitled to be registered as British citizens. Accordingly, many Gibraltarians already possess British citizenship and thus have the right of abode in the United Kingdom.[7] In July 2001, the Chief Minister of Gibraltar stated that for those Gibraltarians who already had or might in future want British citizenship, as opposed to British Overseas Territories citizenship, the new Bill represented a great improvement, as it gave "first class" British citizenship, without the need to apply to register, and in such a way as to be automatically passed on to children and future generations.[8]

10. The Government of the United Kingdom launched a Strategic Defence Review in May 1997 to examine most areas of the United Kingdom's defence. The resultant White Paper placed renewed emphasis on the rapid deployment of British forces in response to crisis and pointed out that Gibraltar's facilities provided an independent forward operating base for British forces in the Mediterranean and served as a transit base for vessels en route to the Middle East and elsewhere. According to a report published in June 1999 by the Foreign Affairs Committee of the United Kingdom House of Commons, over the last 15 years the level of military personnel in Gibraltar has declined from 10,000 to fewer than 1,000, and the level of civilian Ministry of Defence employees from 15,000 to 1,200. Defence-related expenditure has declined from 70 per cent of gross domestic product to 7 per cent.[9]

11. The main defence-related issue in Gibraltar in 2000-2001 was the arrival in May 2000 of HMS *Tireless*, a defective Royal Navy nuclear submarine, which required lengthy repairs in the Territory and raised environmental and health concerns in the region before it finally left in May 2001 (see A/AC.109/2001/10, para. 10). In July 2001, at a press conference during a visit by the British Secretary of Defence, the Chief Minister reiterated the Government's opposition to the use of Gibraltar for repairs to nuclear vessels; he also spoke of the transfer of Ministry of Defence lands and the importance of keeping directly employed workers to perform remaining functions on the military base.[10]

III. Economic conditions

A. General

12. Gibraltar has no known natural resources and lacks agricultural land. The industries, trades and services in the Territory mainly supply the needs of its population and the large number of visitors to the Territory. The economy of Gibraltar is largely dependent on tourism and the provision of financial services, such as banking, insurance, shipping and portfolio management. The legal tender currency of Gibraltar is the pound sterling. Government of Gibraltar currency notes in circulation on 31 March 2001 stood at £12.68 million. Inflation in October 2001 was running at an annual rate of 2.3 per cent.

B. Public finance

13. According to the administering Power, departmental revenue credited to the Consolidated Fund for the year ending on 31 March 2001 totalled £143.5 million and departmental expenditure amounted to £114.3 million, compared with £140.6 million and £104.9 million, respectively, in March 2000. The main sources of Consolidated Fund revenues were income tax, which totalled £53.6 million; import duties, which totalled £31.4 million; and general rates, which totalled £11.4 million. The main Consolidated Fund areas of expenditure from April 2000 to March 2001 were as follows: education and culture, £16.3 million; electricity, £12.7 million; social security and social services, £11.2 million; technical services, £10.9 million; health, £8.8 million; police, £7.1 million; tourism and transport, £5.9 million; building and works, £5.9 million; secretariat, £5.7 million; environment, £5.1 million; treasury, £4.1 million; customs, £2.9 million; fire service, £2.6 million; and trade, industry and communications, £2.3 million.

14. The income tax rates applicable to individuals resident in Gibraltar range from 20 per cent on the first £3,000 of taxable income to 48 per cent after the first £19,500 (see A/AC.109/2001/10, para. 16, for details of income tax and exemptions).

C. Trade

15. Provisional figures for 2000 show that total imports amounted to £659 million (up from £480 million in 1999) and total exports to £392 million (up from £248.5 million in 1999). Nearly half of Gibraltar's non-fuel imports originated from the United Kingdom. Other sources of imports included the Netherlands, Japan and Spain. Exports of goods of local origin were negligible. Exports consisted mainly of re-exports of petroleum and petroleum products supplied to ships. Import controls did not change during the period under review. Other than a few items of essential foodstuffs, gold bullion and gold coins, petrol, caravans, vessels, endangered species, fireworks and cigarettes, all goods can be imported under the Open General Licence.

D. Banking and finance

16. Gibraltar's international financial services sector stems from the enactment of the Companies (Taxation and Concessions) Ordinance in 1967, which made provision for a special tax regime for offshore companies. In 1997, the Gibraltar Finance Centre was established within the Department of Trade and Industry as the focal point for all financial activities in the Territory.[11] At the end of 2001, there were 20 banks authorized to conduct banking business in Gibraltar. As at 31 December 2001, there were also some 8,809 fully paid companies registered under the Companies (Taxation and Concession) Ordinance (see A/AC.109/2001/10, para. 19).

17. In recent years, the Government of Spain has expressed concern that European Union directives on financial regulation have not been fully implemented in Gibraltar, while the United Kingdom has provided different data (see A/AC.109/2001/10, para. 20). In July 2001, the European Commission decided to investigate Gibraltar's exempt and qualifying status legislation under European Union State Aid rules, a step that Gibraltar saw as a major challenge to its Finance Centre. Gibraltar initiated court proceedings against this decision, but the European Court of First Instance upheld the Commission's right to investigate. In his New Year Message, the Chief Minister stated that Gibraltar would soon have to eliminate the two main tax products on which the Finance Centre was based, namely, the tax exempt company and the

qualifying status company. In April 2001, a government spokesperson stated that the authorities had devised a reform of the company taxation law that would maintain government revenue but also allow the Centre to prosper in the face of the threats and challenges posed by the Organisation for Economic Cooperation and Development (OECD), the European Community State Aid litigation and the European Union Code of Conduct relating to business taxation. The Government was now in a position to consult both the United Kingdom and the European Commission on its proposals.[12]

18. A report issued in June 2000 by OECD included Gibraltar in a list of 35 jurisdictions that met the technical criteria for being tax havens.[13] Following months of discussions between Gibraltarian authorities and OECD and exchanges between OECD member States, on 28 February 2002 the Gibraltar Government agreed in writing to implement the principles required by OECD. Commenting on this, the Chief Minister said that many OECD norms were already included in Gibraltar's laws and administrative practices, and added, "Gibraltar supports the raising of standards and elimination of harmful practices in all financial centres across the world. It is essential that there should be a global level playing field, that is, uniformity of application."[14] On 14 March, OECD announced that Gibraltar had made commitments to transparency and to implement an effective exchange of tax information with OECD countries by 31 December 2005, and would thus be removed from the list of uncooperative tax havens.[15] The detailed list of commitments made by Gibraltar in order to comply with OECD requirements was published in both the Gibraltarian and the Spanish media.[16]

E. Transportation, communications and utilities

19. According to the administering Power, arrivals in Gibraltar are by air, primarily from the United Kingdom; by sea, comprising ferry arrivals from Morocco and day-trip arrivals from cruise ships; and by land, comprising mainly day visitors arriving from Spain. Passenger arrivals for 2001 were as follows: air arrivals, 108,833; ferry arrivals, 146,622; cruise visitors, 117,183; and visitor arrivals by land, 7,048,378.

20. Regarding road transportation in and out of Gibraltar, in recent years the border issue has continued to be raised by the United Kingdom in contacts with the Spanish authorities (see A/AC.109/2001/10, para. 22). The United Kingdom submitted a complaint to the European Commission on the matter, and on 18 March 2002 the Commission issued the following statement: "The European Commission intends to close its investigation regarding the Gibraltar-Spanish border restrictions having found no evidence to legally support claims that the checks carried out by the Spanish authorities on travellers and on goods carried by the travellers at the crossing point in La Línea are disproportionate and therefore incompatible with Community law." On 19 March the Spanish Government expressed satisfaction at the Commission's decision and announced that, "taking into special consideration the mutual trust between the two Governments with a view to arriving at an overall agreement on all pending questions", Spain had decided to accede to a request from the British authorities to open up an additional lane for private cars driving into Spain as at 21 March. Spain added that "this measure will significantly speed up the passage of private vehicles at the border without altering compliance by the Spanish authorities with the control obligations imposed by European regulations at that point of entry into the Schengen area and the territory of the customs union".[17]

21. There are regular airline services linking Gibraltar to the United Kingdom and Morocco. In recent years, the issue of Gibraltar's airport was reported to be holding up European Commission aviation agreements on a "single European sky".[18] On 5 September 2001, the European Parliament approved a motion that almost unanimously called for, inter alia, the European Union Council of Ministers to resolve the dispute over the Gibraltar airport. As a result, Gibraltar was suspended from the Single Sky package of measures. According to media reports, on 4 October thousands of Gibraltarians protested against this outcome.[19] In his New Year address, the Chief Minister reiterated that Gibraltarians had been "disappointed and angered" by the United Kingdom's decision. In March 2002, the Gibraltar Government rejected as "illegal and politically unacceptable" further reported arrangements between Spain and the United Kingdom whereby both States would discuss which European Union aviation measures should be applied to the Territory and which should not.[20]

22. As the Strait of Gibraltar is a principal water route between the Mediterranean Sea and the rest of the world, Gibraltar is used as a port by many long-distance liners and cargo ships. It has dry-dock facilities and a commercial ship repair yard. In 1997, there were 27 merchant vessels and 1,334 yachts registered in Gibraltar with a total gross registered tonnage of 700,000. Since the Gibraltar Ship Register joined the Category 1 Red Ensign Group (comprising the United Kingdom, Bermuda, the Cayman Islands, Gibraltar and the Isle of Man), the number of merchant vessels flying the Gibraltar flag has increased from 27 to 90.[21]

23. The local telephone system is operated by Gibraltar NYNEX Communications Ltd., a joint venture company formed in May 1990 and owned by the Government of Gibraltar and Verizon. At the end of 2001, the total number of exchange lines was 24,512. On 19 July 2001, the Government transposed European directives into the Gibraltar Telecommunications Ordinance 2000, thereby liberalizing communications and opening the industry to competition. On 26 September 2001, Gibraltar NYNEX Communications and Gibraltar Telecommunications International (the international carrier, known as Gibtel) came under common ownership, with the Gibraltar Government and Verizon as shareholders. According to the Chief Minister, these measures will lead to better and cheaper telecommunications in the Territory.

24. In 1996, Gibtel and Gibraltar NYNEX lodged formal complaints before the European Commission alleging that the Government of Spain was in breach of European competition law in its non-recognition of Gibraltar's international dialling code and its prevention of mobile roaming agreements.[22] The European Commission has not acted on these complaints. The matter of telephone lines in the Territory was raised by the United Kingdom both bilaterally in its meetings with Spanish authorities and at the European Commission throughout 2000-2001. Spain maintained that it would not accede to Gibraltar's request for 1 million additional telephone lines (see A/AC.109/2001/10, para. 26). In August 2001, the Spanish Foreign Minister announced that Spain was considering providing "several tens of thousands of telephone lines" to Gibraltar as a sign of "good negotiating will" towards the United Kingdom. The Minister maintained that Spain could not accept unfair competition with telephone companies operating in Spain.[23] The decision to allocate 70,000 lines to Gibraltar (additional to the 30,000 lines allocated to the Territory in 1986) was officially announced in Spain's *Boletin Oficial del Estado* on 8 November 2001. In January 2002, the Government of Gibraltar announced that it was rejecting the offer, as it was unacceptable politically, commercially and from a regulatory point of view.[24]

F. Tourism

25. The total number of passengers arriving in Gibraltar in 2001 was 7.4 million, most of whom were day visitors. Hotel arrivals in 2000 were 48,949, up from 42,031 in 1999. There are an estimated 2,000 hotel beds in Gibraltar. The Gibraltar Hotel Association has stated that overall hotel occupancy remains at 65 per cent and has called for more widespread tourism advertising within the United Kingdom.[25]

IV. Social conditions

A. Labour

26. According to the latest employment survey, the number of employees in Gibraltar was approximately 13,400. In October 2000, average weekly earnings for full-time adult male workers in the Territory were £258.39. At the end of 2001, the distribution of persons employed by the five largest sectors was as follows: banking and finance, 2,387; public administration and defence, 2,089; retail trade, 1,910; building and construction, 1,616; and medical and health services, 951. The total number of unemployed persons at the end of 2001 was estimated at 420. The standard weekly rate of unemployment benefit is £37.20, with an increase of £18.30 a week for any one dependent adult. A total of 545 claims were received during 2001, of which 525 were allowed. Legislation regulating labour and employment conditions in the Territory is reported to be in line with European Union directives. The Trade Unions and Trade Disputes Ordinance of Gibraltar contains provisions similar to those in the United Kingdom for the registration and organization of trade unions.

B. Human rights and the status of women

27. The Gibraltar (Constitution) Order of 1969 guarantees the protection of the fundamental rights and freedoms of the individual and the maintenance of a Supreme Court with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with such jurisdiction and powers as are conferred upon it by the Constitution of Gibraltar or any other law. Several major international human rights instruments have been extended to the Territory by the administering Power (see A/AC.109/2001/10, para. 33).

28. The status of women in Gibraltar, whether married or single, with or without family responsibilities, is similar to that enjoyed by women in the United Kingdom.

29. On 18 February 1999, the European Court of Human Rights determined that, with regard to Gibraltar, the United Kingdom had violated article 3 of Protocol 1 to the European Convention on Human Rights, concerning the right to participate in European parliamentary elections (see A/AC.109/2001/10, paras. 35-36). In a June 2001 resolution, the Council of Europe reminded the United Kingdom of its responsibility to abide by the European Court's ruling.[26] In November 2001, the United Kingdom Minister for Europe reiterated that his Government fully supported the right of the Gibraltar electorate to vote in European Parliament elections and was committed to achieving this in time for the 2004 elections.[27] In December 2001, and again in March 2002, Foreign Office Minister Baroness Symons offered the same assurance in the House of Lords, stating that the Government was now seeking legislative time to introduce domestic legislation for this purpose. In March she added that, as domestic legislation, this was not a matter for negotiation with Spain under the Brussels process.[28]

C. Social security and welfare

30. For details of the contributory schemes of the Social Security system, see A/AC.109/2001/10, paragraph 40.

D. Public health

31. The Gibraltar Health Authority is responsible for providing health care in the Territory. The Authority operates a group practice medical contributory scheme and gives registered persons access to free medical treatment. The expenditure of the Gibraltar Health Authority for the period from 1 April 2000 to 31 March 2001 was £29.42 million, up from £28.4 million in the 1999-2000 period (for a description of the available medical facilities see A/AC.109/2001/10, paras. 42 and 43). Construction of a new 200-bed hospital at Europort is due to begin in April 2002, with completion anticipated for September 2003.[29] In July 2001, the Government of Gibraltar and the Junta de Andalucía (the Government of the Spanish autonomous region of Andalusia) finalized an agreement whereby Gibraltarian patients would be eligible to receive medical treatment in hospitals in the nearby cities of La Línea, Algeciras, Cádiz and Málaga. The media recorded this initiative as a "historical breakthrough in cross-border relations".[30]

E. Public education

32. The Education Department continues to be in charge of public education in Gibraltar. Expenditure on education as at the end of March 2001 was £16.32 million. As of 2001, there were 13 primary schools (11 of them Government-run, one private and one services school) with a total of 3,335 students enrolled. There were also four single-sex secondary schools: two Government-run schools, with a total of 1,794 students, and two private schools catering mainly for Jewish girls and boys. There is also a technical and vocational college with 235 enrolled students. The number of teachers employed in Gibraltar during the 2001/02 academic year is 381. All tertiary education is sponsored, and students satisfying entry criteria are entitled to scholarships to study in the United Kingdom. Currently, 605 Gibraltarians are reportedly pursuing university studies in the United Kingdom.

F. Crime and crime prevention

33. According to the Government of Gibraltar, the Royal Gibraltar Police (RGP) enjoys a very satisfactory level of manpower, funding and other resources relative to Gibraltar's size, law and order problems and

financial resources.[31] From January to December 2001, 1,348 people were arrested for minor offences (such as those related to liquor, disorderly conduct and immigration violations). During the same period 739 people were arrested for serious crimes (such as those related to violence against the person, sexual offences, burglary and drugs). In the RGP report for 2000-2001, the Police Commissioner welcomed a downward trend in recorded serious crime but noted an increase in cocaine and ecstasy found in the Territory. The report also reflected a strengthening of cooperation between the RGP and the Spanish Policía Nacional and Guardia Civil, as well as the local police of the Spanish town of La Línea, as envisaged in the European Union Schengen Agreement.[32]

V. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

34. The Chief Minister of Gibraltar and representatives of Spain and the United Kingdom attended the Caribbean regional seminar to review political, economic and social conditions in the small island Non-Self-Governing Territories, held in Havana, Cuba, from 23 to 25 May 2001.

35. During the fifty-sixth session of the General Assembly the Special Committee considered the question of Gibraltar at its 4th and 8th meetings, on 19 and 29 July 2001, and had before it a working paper concerning the Territory (A/AC.109/2001/10). At its 4th meeting, the Special Committee heard a statement by the Chief Minister of Gibraltar, Peter Caruana. Statements were also made by Joseph Bossano, Leader of the Opposition in Gibraltar, and Bryan Zammit, Chairman of the United Nations Association of Gibraltar. The Special Committee acceded to the request of the delegation of Spain to participate in the Committee's consideration of the question of Gibraltar. The representative of Spain made a statement at the meeting. At the same meeting, following a statement by the representative of Papua New Guinea, the Special Committee decided to defer consideration of the question to a later meeting of the Committee. At the 8th meeting, statements were made by the representatives of Papua New Guinea, Grenada and Spain. The Special Committee decided to continue its consideration of the question at its next session, subject to any directives that the General Assembly might give in that connection at its fifty-sixth session, and, in order to facilitate consideration of the question by the Fourth Committee, to transmit the relevant documentation (A/56/23 (Part II)) to the Assembly.

B. Special Political and Decolonization Committee (Fourth Committee)

36. At its 5th meeting, on 10 October 2001, the Fourth Committee heard a statement by the Chief Minister of Gibraltar, Peter Caruana (see paras. 42-44), a statement by petitioner Joseph Bossano, Leader of the Opposition in Gibraltar, and a statement by petitioner Bryan Zammit, Chairman of the United Nations Association of Gibraltar (see A/C.4/56/SR.5). At its 6th meeting, on 12 October, the Committee heard a statement by the representative of Spain. At the same meeting, the representative of the United Kingdom spoke in exercise of the right of reply (see A/C.4/56/SR.6). At its 7th meeting, on 16 October 2001, the Committee had before it a draft resolution on the question of Gibraltar (A/C.4/56/L.4), submitted under agenda item 18. The Committee adopted the draft resolution without a vote, and statements were made by the representatives of Spain and the United Kingdom (see A/C.4/56/SR.7).

C. Action by the General Assembly

37. At the 49th plenary meeting of the General Assembly, on 12 November 2001 (see A/56/PV.49), Mr. Josep Piqué, Minister for Foreign Affairs of Spain, made a statement and referred to the question of Gibraltar (see para. 46). At the same meeting, the representative of the United Kingdom spoke in exercise of the right of reply (see para. 39).

38. At its 82nd plenary meeting, on 10 December 2001 (see A/56/PV.82), the General Assembly, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), adopted decision 56/421 without a vote. The decision reads as follows:

"The General Assembly, recalling its decision 55/427 of 8 December 2000, and recalling at the same time that the statement agreed to by the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland at Brussels on 27 November 1984 stipulates, inter alia, the following:

> 'The establishment of a negotiating process aimed at overcoming all the differences between them over Gibraltar and at promoting cooperation on a mutually beneficial basis on economic, cultural, touristic, aviation, military and environmental matters. Both sides accept that the issues of sovereignty will be discussed in that process. The British Government will fully maintain its commitment to honour the wishes of the people of Gibraltar as set out in the preamble of the 1969 Constitution',

"Takes note of the fact that, as part of this process, the Ministers for Foreign Affairs of Spain and of the United Kingdom of Great Britain and Northern Ireland hold annual meetings alternately in each capital, the most recent of which was held in London on 26 July 2001, and urges both Governments to continue their negotiations with the object of reaching a definitive solution to the problem of Gibraltar in the light of relevant resolutions of the General Assembly and in the spirit of the Charter of the United Nations."

VI. Future status of the Territory

A. Position of the administering Power

39. At the 49th plenary meeting of the General Assembly at its fifty-sixth session, on 12 November 2001, the representative of the United Kingdom, in exercise of the right of reply, said:

> "I would like to respond briefly to the remarks made today by the Minister for Foreign Affairs of Spain about Gibraltar. The long-standing position of the British Government on this matter is well known, and we continue to stand by the commitment to the people of Gibraltar set out in the Preamble to the 1969 Constitution of Gibraltar, which enshrines the principle of consent of the people of Gibraltar to any change in sovereignty.
>
> "The British Government shares Spain's view that issues relating to Gibraltar can be resolved only through dialogue such as that which we have recently resumed with Spain under the Brussels process. We attach importance to continuing this dialogue with Spain as a means to build a better future for the people of Gibraltar, and, like Spain, we would welcome the attendance of the Chief Minister of Gibraltar at future ministerial meetings" (A/56/PV.49, p. 44).

40. During the period under review, the position of the British Government on the status of Gibraltar and the Anglo-Spanish talks has been voiced on numerous occasions by Foreign Secretary Jack Straw and by Foreign Office Ministers in speeches, joint communiqués with Spain (see paras. 48-50) and articles. The issue has also been discussed on several occasions in both Houses of Parliament. On 4 February 2002, an article by Mr. Straw entitled "Seeking the Best for Gibraltar" was published in the *Gibraltar Chronicle*. In it he said, inter alia:

> "I believe that the process of dialogue we are engaged in is the right way forward — not just for Britain but, most importantly, for Gibraltar itself. It cannot be right that the people of Gibraltar are forced to endure the sort of obstructions to everyday life which have become commonplace. Whether these be border delays, flight restrictions, access to telephone lines or even pigeon racing events, you have the right to be free of this disruption, and to enjoy the benefits and opportunities of a modern Europe of economic opportunity and free movement. It also cannot be right that the United Kingdom's relationship with a key European Union and NATO ally is persistently undermined by our dispute with Spain over Gibraltar."

41. On 5 February 2002, the Foreign Secretary spoke about the negotiations on Gibraltar to the House of Commons:

> "There are four aspects to the approach that we have adopted: preserving Gibraltar's unique way of life; greater internal self-government for Gibraltar; practical benefits through cooperation

and putting the long-running dispute about sovereignty to rest.

"I am convinced that this dialogue represents the best way forward for the people of Gibraltar as well as for Spain and the United Kingdom. It must be better to try to settle differences through dialogue, and I am convinced that the people of Gibraltar have more to gain than to lose from the process. Moreover, they will not lose their British citizenship nor their traditional way of life. However, they will gain greater self-government and many practical benefits of a much more cooperative relationship with Spain and its people.

"I underline the commitment that any proposals affecting the sovereignty of Gibraltar will not and cannot be put into effect without the consent of the people of Gibraltar in a referendum.

"I want the Government of Gibraltar to be directly involved in the Brussels round talks. Yesterday, the British and Spanish Governments reiterated our invitation to Chief Minister Caruana to participate in the discussions on the basis of the Two Flags, Three Voices formula, in which he would have his own distinct voice as part of the British delegation.

"Lastly, there is nothing inevitable about the outcome of the discussions, but it is in all our interests to make a constructive effort to find a lasting solution to the problems — above all, one which we believe will be in the interests of the people of Gibraltar."[33]

B. Position of the territorial Government

42. At the 5th meeting of the Fourth Committee, on 10 October 2001, the Chief Minister of Gibraltar, Mr. Caruana, said that he and his predecessor had appeared before the Committee annually since 1992. They had deployed arguments and made many pleas and requests, none of which had even received a response or commentary, still less been acted upon by either the Fourth Committee or the Special Committee. Instead, he added, the Fourth Committee limited itself to adopting the same annual, tired and self-evidently ineffective consensus resolution, which appeared to ignore everything stated to the Committee on behalf of the people of Gibraltar. The real issue for the Committee was whether it believed that the mere existence of a territorial sovereignty dispute was sufficient to displace and override the right to self-determination of a colonial people.

43. In the process of decolonization, he said, there was no alternative to self-determination. Contrary to what Spain said, there did not exist, in international law or United Nations doctrine, any principle of territorial integrity that could be applied to a decolonization situation. The annual consensus resolution on Gibraltar was fundamentally flawed because it called for bilateral negotiations between the United Kingdom (the administering Power) and Spain (the territorial claimant) to resolve their differences over Gibraltar. Where did the people of Gibraltar and their wishes and rights to self-determination fit into that formula? The language of the resolution was one of territorial disputes and not one of decolonization and self-determination, ignoring the inalienable right of the people of Gibraltar.

44. In July, the United Kingdom and Spain jointly announced that they were giving "a fresh impetus" to discussions between them under the Brussels Agreement to resolve all the differences between them, he said. The people and the Government of Gibraltar did not turn their backs on dialogue with Spain. However, it had to be a dialogue in which Gibraltar could reasonably be expected to participate with safety and respect for its own position. It could not be a bilateral dialogue between the United Kingdom and Spain in which Gibraltar's presence and participation was relegated to some secondary or supporting role. Mr. Caruana asked that the Committee amend the annual consensus resolution so that it recognized the right of the people of Gibraltar to decolonization in accordance with the principle of self-determination and their right to a separate voice of their own in any dialogue about Gibraltar. Should there be any doubt in the Committee's mind about the right of the people of Gibraltar to self-determination, that question should be referred to the International Court of Justice for an advisory opinion. He also requested that the Special Committee visit Gibraltar to establish the true facts and circumstances about the Territory and its people.

45. During the period under review, the Chief Minister of Gibraltar has made numerous statements on the status of Gibraltar and the Territory's position with respect to the ongoing talks between Spain and the

United Kingdom. The views of the Gibraltar Government have been reflected in speeches, articles, media appearances and published letters, and also at public demonstrations held in Gibraltar on 4 October 2001 and 18 March 2002. At the demonstration held on 18 March, which is reported to have been attended by two thirds of the Gibraltarian population, Mr. Caruana read out the following declaration:

> "We the people of Gibraltar here gathered declare as follows: 1) The future of Gibraltar both in practice and in principle, including our sovereignty, can only be decided by the people of Gibraltar in exercise of our right to self-determination. 2) We reject and condemn, as a betrayal of our rights and wishes as a people, any Anglo-Spanish declaration of agreement of principles which makes in-principle sovereignty or other concessions to Spain against our wishes. 3) We therefore call on the British Government not to enter into any such agreements and we say: Yes to reasonable dialogue; Yes to good-neighbourly European relations with Spain based on reasonable dialogue and mutual respect; and No to in-principle sovereignty and other concessions to Spain against our wishes."[34]

C. Position of the Government of Spain

46. At the 49th plenary meeting of the General Assembly, on 12 November 2001 (see A/56/PV.49), Mr. Josep Piqué, Minister for Foreign Affairs of Spain, made a statement and referred to Gibraltar as follows:

> "As has already been communicated to the Secretary-General, the United Kingdom and Spain agreed, on 26 July in London, to relaunch their talks within the framework of the Brussels Declaration, issuing to this end a communiqué in which they underlined their political will to overcome all of their differences over Gibraltar and to conclude these talks promptly and successfully for the benefit of all the parties involved. Furthermore, they invited the Chief Minister of Gibraltar to participate in ministerial meetings within the framework of this process".

47. On 26 March 2002 an open letter from the Spanish Minister for Foreign Affairs to the Gibraltarians was published in the *Gibraltar Chronicle*. It included the following paragraphs regarding the position of Spain:

> "I am aware of the existing mistrust after long years of difficult relations and mutual perceptions of misunderstanding. I understand and assume it. I am also aware that Spain's historical aspirations have been perceived by many of you as harassment and a threat to your traditions and way of life.
>
> "I want to make this very clear: As you surely know, Spain's historical claim, which is fully justified, concerns the sovereignty over the territory and is — and intends to be — perfectly compatible with the interests of the Gibraltarians as free citizens in a democratic system. We have invited Chief Minister Mr. Caruana to attend the talks from the very start.
>
> "Unfortunately, so far he has not attended. I honestly hope that he reconsiders his position. The task that we are fulfilling is for the benefit of all. In the first place, for the two countries that have the obligation to overcome a historical dispute that has disturbed their relations for the last three centuries. Its perpetuation makes no sense in the twenty-first century between States who are friends and allies, Members of the European Union and of NATO. Furthermore, this effort will also benefit you and your neighbours, that is, both the Gibraltarians and the people of the Campo.
>
> "I can assure you that if we achieve the desired agreement with the United Kingdom you have nothing to fear from today's Spain. Quite the opposite: such an agreement will provide you with a future of understanding and harmony, of stability and security, of well-being and prosperity. Thus, the situation of uncertainty that stems from an unsustainable status quo — that can only deteriorate if such an agreement is not reached — would come to an end. Spain has shown that very deeply rooted conflicts can be overcome.
>
> "Do, please, stop considering Spain as it was and, fortunately, no longer is. We enjoy full-fledged democracy, with all the freedoms and guarantees, which safeguard diversity and plurality within our country. You will agree with me that it is difficult to find a country that is

more respectful than Spain of its different cultures, languages and singularities, all of which are fully guaranteed by our Constitution. And I take on the commitment that any agreement we reach with the United Kingdom will take into account the indispensable respect of your singularities. Without any doubts or mental reservations whatsoever."

D. Anglo-Spanish negotiations

48. On 26 July 2001, the Ministers for Foreign Affairs of Spain, Josep Piqué, and of the United Kingdom, Jack Straw, relaunched talks on the subject of Gibraltar. At the end of a meeting held in London, they issued the following joint communiqué:

"The Ministers met under the terms of the Brussels Declaration made in the joint communiqué issue in November 1984. In the spirit of the good relations existing between the United Kingdom and Spain, both Ministers underlined their intention and political will to overcome all their differences over Gibraltar, and to make every effort to bring these talks to a successful and speedy conclusion to the benefit of all parties involved. Both sides discussed their approach to the practical issues of cooperation and sovereignty.

"They confirmed that Gibraltarian engagement will be an important element in carrying this process forward, and would welcome the attendance of the Chief Minister of Gibraltar at future and Ministerial meetings.

"It was agreed to hold further meetings, including a further Ministerial meeting in the Autumn to take forward the discussions."

49. On 20 November 2001, the Foreign Ministers met in Barcelona and issued the following joint communiqué:

"At our meeting today we confirmed our shared objective to continue our discussions about Gibraltar, in an atmosphere of trust and mutual cooperation, a commitment which Prime Minister Blair and Prime Minister Aznar endorsed when they met in London on 9 November. We are delighted that we are making good progress.

"We discussed the full range of issues set out in the November 1984 Brussels Communiqué. We did not want to draw conclusions today. Our aim is to conclude a comprehensive agreement by the summer of next year. This overall agreement will cover all outstanding issues, including those of cooperation and sovereignty. Our shared objective is a future where Gibraltar enjoys greater self-government and the opportunity to reap the full benefits of normal coexistence with the wider region. The guiding principle is to build a secure, stable and prosperous future for Gibraltar and a modern sustainable status, consistent with our common membership of NATO and the European Union. We also agreed on the need for rapid progress on key areas of cooperation. We asked officials to work up ideas and report to the next Ministerial meeting.

"While the British Government welcomed the Spanish decision to more than triple the number of telephone numbers for Gibraltar to 100,000, both Ministers agreed on the need for experts to continue discussions to resolve the other telecommunications issues. The British Government welcomed Spain's proposals to improve health-care facilities in Spain for Gibraltarians, and both Ministers agreed that this should be followed up quickly. The Ministers also agreed that bilateral discussions would continue to address the pensions issue.

"We agreed that the Government of Gibraltar had a very important contribution to make to our discussions. Gibraltar's voice should be heard. We reiterated the invitation which we issued to the Chief Minister of Gibraltar when we met in London on 26 July to attend future Brussels Process Ministerial meetings. His role will be fully respected and he will have the opportunity to contribute fully to the discussions. The Process would benefit greatly from the direct views of the Government of Gibraltar, and through the Government of the House of Assembly and public opinion in Gibraltar as a whole."

50. A third joint communiqué was issued after the meeting held in London, on 4 February 2002:

"At our meeting today we continued to make good progress in our discussions about

Gibraltar in the atmosphere of friendship and understanding which links the United Kingdom and Spain, reaffirming the full range of commitments that we assumed at our previous meetings in London and Barcelona. Our common aim remains to conclude a comprehensive agreement before the summer, covering all outstanding issues, including cooperation and sovereignty. Both Governments confirmed that their shared objective is to overcome their differences over Gibraltar and to ensure a secure future for Gibraltar in which Gibraltar can preserve its way of life and traditions, enjoy greater internal self-government, sustain and enhance its prosperity, and reap the full benefits of a harmonious and mutually beneficial cooperation in all fields together with the wider region.

"We reiterate our invitation to the Chief Minister of Gibraltar to attend future Brussels Process meetings so that he, and through him the Gibraltarians, can join the current dialogue and contribute to it to the benefit of Gibraltar. We confirmed that the Chief Minister is warmly invited to participate on the basis of the Two Flags, Three Voices formula, having his own and distinct voice as part of the British delegation.

"Our intention is that the comprehensive agreement we seek will offer the best framework for a secure, stable and prosperous future for Gibraltar. In that framework, our objective is that Gibraltar can enjoy enhanced powers of internal self-government allowing its Government and population to have a greater say in their lives. We will invite the Government of Gibraltar to develop together with us the relevant ideas on this objective. We also took forward our work on all the possible ways of enhancing cooperation to improve the quality of the daily lives of people in Gibraltar and the Campo region. The United Kingdom and Spain reaffirmed that the aim of the arrangements they seek is to promote the highest levels of fruitful cooperation within the wider region, favouring better standards of living and working conditions in Gibraltar and the Campo, and fluid communications with the region.

"The Spanish Government recalled the arrangements it had made to allocate a further 70,000 telephone numbers for Gibraltar and reaffirmed that, as regards the technical responsibilities of the Spanish side, they are operational. It expressed its commitment to ensure that no obstacles prevent their immediate use for the benefit of all Gibraltarians. To that end, the United Kingdom and Spain agreed to engage in immediate talks to assess the situation and attain that objective. Both Governments also tackled the issue of pensions, a problem on which they will intensify their efforts to find a prompt solution consistent with the responsibilities of the public authorities involved."

E. Anglo-Gibraltarian discussions

51. During the period under review, there were regular meetings between United Kingdom and Gibraltarian officials. The United Kingdom has on many occasions stressed the need for Gibraltar to participate in the relaunched talks with Spain (see paras. 39-41).

52. Regarding Gibraltar's position, the Chief Minister spoke as follows before the House of Commons Foreign Affairs Committee on 28 November 2001:

> "The British Government remains committed not to transfer sovereignty of Gibraltar, in whole or in part, contrary to the wishes of the people of Gibraltar. The people of Gibraltar will not agree to any such transfer. The Foreign Office well knows this, yet it continues to say that they will reach a comprehensive agreement by next summer. ... And so, I am expected to lend my support, through participation, in a process of dialogue from which will emerge a deal before next summer, over the terms of which I have no control and which will then be put to the people of my country, to accept or reject at the peril of 'being left behind' (whatever that might mean). That is simply not a viable or safe political process of dialogue. Nor does such status at talks in any way respect or reflect our right to self-determination."[35]

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations, on 2 April 2002, as well as from official documents of the Government of Spain and published sources.

[2] *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 23* (A/7623/Rev.1), vol. III, chap. XI, annex, paras. 7-23.

[3] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1, annex.

[4] *Gibraltar Chronicle*, 28 February 2002.

[5] Lords Hansard, Written Answer Text, 10 April 2002.

[6] Gibraltar Elections 2000 web site (http://www.gibraltar.gi/election).

[7] British Overseas Territories Bill, Explanatory Notes, House of Lords, 26 June 2001.

[8] Government of Gibraltar press release, 11 July 2002.

[9] Report by the Foreign Affairs Committee, House of Commons, 8 June 1999 (accessed at http://www.parliament.uk/).

[10] *Gibraltar Chronicle*, 18 July 2001.

[11] http://www.gibraltar.gov.gi/

[12] *Gibraltar Chronicle*, 5 April 2002.

[13] Organisation for Economic Cooperation and Development, *Progress in Identifying and Eliminating Harmful Tax Practices*, June 2000.

[14] *Gibraltar Chronicle*, 1 March 2002.

[15] Agence France-Presse, 14 March 2002.

[16] *Gibraltar Chronicle* and *El Pais*, 15 March 2002.

[17] Press release of the Office of Diplomatic Information, Ministry of Foreign Affairs of Spain, 19 March 2002.

[18] Reuters and *El Pais*, 8 March 2001.

[19] Reuters, 4 October 2001.

[20] Government of Gibraltar press release, 22 March 2002, and *ABC*, 23 March 2002.

[21] Government of Gibraltar press release, 13 December 2001.

[22] Government of Gibraltar press release, 23 February 2001, and Select Committee on Foreign Affairs, Appendix 4, Memorandum submitted by the Foreign and Commonwealth Office.

[23] *ABC*, *El Mundo* and *El Pais*, 3 August 2001.

[24] Government of Gibraltar press release, 23 January 2002.

[25] www.chronicle.gi, 19 February 2002.

[26] *Gibraltar Chronicle*, 28 June 2001.

[27] Agence France-Presse, 29 November 2001.

[28] *Gibraltar Chronicle*, 6 December 2001, and www.publications.parliament.uk, 14 March 2002.

[29] Government of Gibraltar press release, 23 November 2001.

[30] *Gibraltar Chronicle*, 6 July 2001.

[31] Government of Gibraltar press release, 15 May 2001.

[32] *Gibraltar Chronicle*, 1 August 2001.

[33] Foreign and Commonwealth Office — News, 5 February 2002.

[34] *Gibraltar Chronicle*, 19 March 2002.

[35] Government of Gibraltar press release, 28 November 2001.

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American Samoa

Working paper prepared by the Secretariat*

Contents

		Paragraphs	Page
I.	Background information	1–3	3
II.	Constitutional, legal and political issues	4–10	3
III.	Budget	11–16	4
IV.	Economy	17–26	5
	A. General	17–18	5
	B. Agriculture and fisheries	19–20	6
	C. Tourism	21	6
	D. Transport and communications	22–25	6
	E. Water, sanitation system and utilities	26	7
V.	Social conditions	27–39	7
	A. Labour	27–30	7
	B. Education	31–35	8
	C. Public health	36–37	9
	D. Housing	38	9
	E. Crime	39	9

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VI.	Environment	40–42	9
VII.	Relations with international organizations and entities	43–46	10
VIII.	Future status of the Territory	47–51	10
	A. Position of the territorial Government	47–48	10
	B. Position of the administering Power	49–50	10
	C. Consideration by the United Nations	51	11

I. Background information

1. American Samoa,[1] is located in the South Pacific approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands (Tutuila, Aunuu, Ofu, Olosega, Tau, Swains and Rose) and several lesser islands belonging to the Samoan group. The total land area is 197 square kilometres, about 70 per cent of which is covered by dense forest. Tutuila, where the capital Pago Pago is located, is the largest island, constitutes 70 per cent of the total land area and is home to 90 per cent of the population.

2. It is generally believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to find these islands, in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial Powers of Germany, Great Britain and the United States led to a period of instability. Deeds of cession of these islands to the United States were formally accepted by means of an Act of Congress on 20 February 1929. Pursuant to this Act, the native inhabitants were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. As the American interest in the area had been mainly military, the Territory was placed under the jurisdiction of the United States Navy. In 1951, an executive order transferred authority over the Territory to the Department of the Interior.

3. According to the releases of the census conducted in 2000 and published in February 2002, provided by the administering Power, the population of American Samoa is 57,291, of which 51.1 per cent is male and 48.9 per cent is female. The annual population growth rate is 2.64 per cent. Since 1990, the population has increased by 22.5 per cent. Ethnically, the population breaks down into 91.6 per cent native Hawaiian and other Pacific Islanders (including 88.2 per cent Samoan and 2.8 per cent Tongan), 2.8 per cent Asian and 1.1 per cent Caucasian. Of the native population, 56.7 per cent were born in American Samoa, 6.3 per cent in the United States, and 36.1 per cent were foreign born. The population (90.6 per cent 5 years and older) speaks Samoan, which is closely related to Hawaiian and other Polynesian languages, and English; 2.9 per cent of the population speaks English only. The literacy rate is 97 per cent. The median age is 21.3 years. Life expectancy is 75.32 years, with male life expectancy at 70.89 years and female life expectancy at 80.02 years. The annual birth rate is 24.88 births per 1,000 population and the annual death rate 4.31 deaths per 1,000 population. The annual net migration rate is 3.58 migrants per 1,000 population.

II. Constitutional, legal and political issues

4. American Samoa is a Non-Self-Governing Territory under the administration of the United States of America. The Constitution adopted in 1960 was revised in 1967 and was subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an Act of the United States Congress. In 1978, the people of American Samoa for the first time elected their own Governor. Since 1981, American Samoa has also elected, by direct vote, a non-voting delegate to the United States House of Representatives, who can, however, vote in committees. The most recent election was held in November 2000.

5. As American Samoa is an unincorporated and unorganized Territory of the United States, not all provisions of the United States Constitution apply. Residents of American Samoa are not United States citizens. They cannot vote in the United States general election but are permitted to participate in presidential primaries and caucuses. They are United States nationals who can freely enter the United States and work or reside anywhere they choose. American Samoa has its own immigration laws, and entry into American Samoa by foreigners is not the same as entry into the United States (in contrast with Guam, where United States immigration laws apply).[2]

6. The Constitution provides for separate executive and legislative branches and an independent judiciary. All American Samoans over 18 years of age are eligible to vote. The executive branch comprises a Governor and a Lieutenant-Governor elected for four years by universal adult suffrage. The Governor is responsible for executing both American Samoan and

United States laws and has veto power with respect to legislation passed by the Fono. The Fono is a bicameral legislature, which comprises an 18-member Senate whose members are chosen by 14 traditional tribal councils, and a 20-member House of Representatives, with the members elected by popular vote. Only *matais* (or chiefs) can become senators. Senators hold office for a four-year term, and representatives for a two-year term. The Fono may pass laws with respect to all local affairs, provided its laws are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements.

7. The main business of the Government is the management and distribution of federal income and capital subsidies. The traditional communal system provides the basis for a strong Government whereby leaders are responsible not only for preserving the social order but also for the economic welfare of the extended family. The federal Government underwrites most of the cost of preserving this system. This affiliation allows the United States to have access to and use of the Territory for defence and other purposes. In 2000, the number of employees in the Government reached 5,002, or 29.9 per cent of the entire employed civilian population 18 years and older.[3] The Government also manages power, water and sewer systems through the American Samoa Power Authority.

8. The judiciary system consists of the High Court, with the Chief Justice and the Associate Justices appointed by the Secretary of the Interior, and the local District and Village Courts, with the judges appointed by the Governor. The current Chief Justice is the first native Samoan to be appointed to the position. The High Court is divided into Appellate, Trial and Land and Titles. Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court. American Samoa laws are textually identical to United States laws ("mirror laws"), where all references to the United States are substituted by references to American Samoa.

9. During the period under review, the question of applicability of the United States Federal jurisdiction in the Territory was widely discussed at the local and federal levels. The issue was brought to light in connection with the investigation of the Daewoosa Samoa garment factory and the medical insurance fraud cases. Federal officials asserted that the District Court of Hawaii had jurisdiction "to decide cases involving violations of federal criminal law that occur in American Samoa". However, the legal basis for such a position was questioned by the defendants as well as territorial authorities (see also para. 30 below). United States Federal authorities released a 30-page legal brief containing arguments supporting their position. In January 2002, the Governor of the Territory expressed the concern of local leaders that plans to extend the jurisdiction of the United States Federal Court to American Samoa would "begin to erode traditional chiefly influence" and "would result in weakening of the chiefs' traditional powers". At the same time, the Governor stated that public opinion should be taken into account before initiating any changes. In addition to the FBI investigators, since the end of 2001, more than 20 off-island auditors have been conducting audits for the Government and a number of its agencies, and preparing financial statements outstanding since 1998, as part of ongoing fiscal reform.[4]

10. During the period under review, the applicability of federal laws in the Territory was an underlying issue of the tax-related bill passed in the Territory in August 2001. The bill would automatically block any new and future federal tax codes that "would financially hurt the American Samoa Government". The bill is not retroactive. It states that "the tax laws in American Samoa will be the U.S. Internal Revenue Code that exists as of December 31, 2000". This measure was introduced to curb the effects of the new federal tax cuts on the local tax return claims. In particular, the Child Tax Credit federal law became a subject of discussion in the Territory by the administration and the population. According to the 2000 changes in the Child Tax Credit law, the tax return claims for dependent children had to be partially paid from the local government's coffers. The territorial Government argued that its obligations to pay such claims could surpass the taxes it collected. According to the Governor, any new federal tax reform should be critically analysed and adopted by the Territory on a provision-by-provision basis.[5]

III. Budget

11. The territorial budget consists mainly of the federal grants-in-aid, the annual federal allocations through the Department of the Interior and from the locally generated revenue. As reported in the previous working paper (see A/AC.109/2001/17, paras. 24-31),

American Samoa's Government had experienced revolving financial problems caused by the limited economic and tax base versus the growing costs of providing government services. Attempts to reduce the persistent budget deficit had envisaged such measures as reduction in the number of public sector employees, increased fees for government services, and plans to diversify the economy.

12. The American Samoa Economic Advisory Commission, established in 1998 and vested with the responsibility of advising the President of the United States through the Secretary of the Department of the Interior regarding the economic future of American Samoa, produced a report in January 2002. It recommended the reduction of the government sector and the development of a private sector as the main driving force of a self-sustaining market economy. At the beginning of 2002, Congress allocated $4.3 million for the territorial fiscal and managerial reform programme.[6]

13. According to the 2002 State of the Territory address, for the first time in 20 years, the Government finished the 2001 financial year in the black. The Governor reported that while the projected budget for the government operation for 2001 totalled $73.0 million, the actual revenues were $77.2 million with $4.2 surplus. The surplus was used to pay off the claims for the additional child tax credit. Furthermore, the Government was able to pay off all its major debts, including the amount of $12 million it owed to the federal Government under the Federal Insurance Contributions Act (Social Security). According to the Governor, the debt was paid by the proceeds from the Government's Tobacco Settlement Loan and Insurance Settlement from the case against Affiliated Insurance for damages from Hurricane Val (1991). At the same time, the efforts to hold down the Government's expenses are likely to continue. In his State of the Territory address, the Governor pointed out that in 2001, the Fono alone overspent its budget by $815.9 million and the rest of the Government overspent the budget by slightly over a million.[7]

14. In the course of the preparation of the 2002 budget, the Governor informed the legislature that the 2002 budget proposal would "no longer include projected revenues" but will show the proposed amount, the "actual revenue" from the past year and the difference between the two. In September 2001, the 2002 budget was approved at $212.9 million, compared with $198.8 million for the previous year. The budget period has been extended from 10 to 12 months and reflected an increase of 7 per cent. The major funds that constitute the budget were $60.6 million from federal grants, $64.3 million from enterprise funds, $23.1 million from grants-in-aid and $10.1 million from capital improvement funds. The total local revenue is projected at $54.78 million. In March 2002, the Senate approved $980,000 supplementary budget, mostly to fund government operations and tax refunds.

15. As one of the measures to compensate for the $8 million budget shortfall for the fiscal year 2002, the Fono passed, in September 2001, a bill that cancelled the American Samoa Government exemption from paying excise taxes on goods imported for use on government projects. The move is expected to raise about $1 million. Other measures include an increase of the minimum tax on low incomes from 2 to 4 per cent, which will raise an estimated $3 million, a 10 per cent tax on the gross revenues of the communications industry, which will help to collect $1.5 million, an increase of 10 cents per gallon on gasoline, which will raise $600,000, and creation of the Bureau of Revenue, incorporating the Tax Office, Custom and Accounts Receivable will raise from $400,000 to $500,000.[8]

16. Along with the introduction of new taxes and improvement in tax collection, the Government uses tax exemption as a means to support local industry. The Governor is allowed to grant partial or full tax exemptions to local companies if at least 75 per cent of the employees of the business are residents of American Samoa. The main canneries in the Territory, StarKist and Samoa Packing, have had tax exemptions since they first started operation 40 years ago. StarKist received a new 10-year tax exemption from the Governor in 2000. Samoa Packing, which employs about 2,400 workers, has also applied for a new exemption.[9]

IV. Economy

A. General

17. Economic activity in general is strongly linked to the United States. About 93 per cent of American Samoa's economy is based on United States federal expenditures and the canning industry, while the remaining 7 per cent stems from a small tourism

industry and a few businesses which sell exclusively to the local market. Prospects for agricultural development are limited owing to the small amount of land suitable for cultivation. The largest trading partner of American Samoa is the United States, followed by New Zealand, Australia and Fiji. Imports are mainly food (22 per cent) and petroleum products (17 per cent), machine parts, building materials, textiles and clothing; canned tuna accounts for 97 per cent of exports.[10] In 2002, imports increased by 125 per cent from levels of the previous year in the major categories of merchandise and particularly in the subcategories of automobiles and heavy equipment.[11]

18. Tuna fishing and tuna processing plants are the backbone of the private sector, with canned tuna as the primary export, meeting 20 per cent of the United States market. This sector employs a third of the people. The Government employs another third. Attempts by the Government to develop a larger and broader economy are constrained by American Samoa's remote location, limited transportation and devastating hurricanes, as well as competition from neighbouring islands with lower wage levels and from larger, more efficient businesses in the United States.

B. Agriculture and fisheries

19. Agriculture, hunting, forestry and fishing employ less than 3 per cent of the population and provides little surplus for export. The most important crops include taro, coconuts, bananas, oranges, papayas, breadfruit and yams.

20. As was reported in the previous working paper (A/AC.109/2001/17, paras. 37-40), 90 per cent of the Territory's economy and one third of its workforce was dependent on the fishing industry. American Samoa's tuna processing industry is the fourth largest in the world. During the period under review, the attention of the Government and the business community concentrated around the Andean Trade Preference Expansion Act (ATPEA), which could have a strong negative effect on the tuna industry of American Samoa. Under the ATPEA, the United States, in its effort to combat drug production and trafficking, would grant the Andean States special trade conditions, in particular duty-free import of canned tuna. The capacity of Andean countries to supply the entire United States market was seen as a threat to the local fishing industry, which could lose a crucial number of jobs, $18 million in processing revenue, $5 million in utilities, $1.5 million in wages, and thousands of dollars in tax revenue. The American Samoa delegate to the House of Representatives lobbied an amendment to the ATPEA that would limit the import of duty-free canned tuna to the United States.[12]

C. Tourism

21. Despite the Government's efforts to encourage tourism, the industry remains small. American Samoa has little tourist infrastructure, with only one hotel (80 per cent government-owned) and a total of 260 hotel/motel rooms in Tutuila and Mau'a. According to the Department of the Interior, in addition to its need for upgraded tourist facilities, the tourism industry needs increased promotion, improved skills training and increased international air travel services. According to the report of the Economic Advisory Commission, tourist arrivals totalled 4,514 in 1997, a further decline from 5,800 in 1995. The report noted that the Territory lacked the infrastructure needed to support the demands of a viable, large-scale industry.

D. Transport and communications

22. There are approximately 150 kilometres of paved roads and 200 kilometres of secondary roads in American Samoa. The highway system is generally in poor shape owing to the effect of hurricanes, the age of the roads, and inadequate maintenance. The Federal Highways Administration provides funding for road rehabilitation and construction projects. In July 2001, the Governor reported that a $6.8 million grant from the United States rural development source had enabled the Government to build concrete roads throughout many villages in the Territory during the last three years. In September 2001, the Government requested the Federal Highways Administration to consolidate a lump-sum of federal funding ($40 million for corridor rehabilitation and $15 million in shore protection funds) to continue the rehabilitation of the Territory's roads.[13]

23. Pago Pago harbour is an all-weather deep-draught harbour. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-ton marine railway. However, the general condition of the

port continues to deteriorate as a result of inadequate maintenance.

24. There are four airports on Tutuila, Ofu, Olosega, and Ta'u. Pago Pago International Airport is owned and operated by the territorial Government. It is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Hawaiian Air provides direct air service from Pago Pago to Honolulu. Polynesian Airlines, Air New Zealand and Air Pacific provide regional air service to New Zealand, Australia, Fiji, Vanuatu, Tonga, New Caledonia, Tahiti and the Cook Islands. The national airline, Samoa Air, flies to Tonga, and other destinations and is available for charter. Domestically, Samoa Air flies regularly to Ofu, Olosega, and Ta'u Islands, and makes several flights a day to Samoa. American Samoa continues to experience extremely heavy air travel. Samoa alone recorded 23,000 visitors from American Samoa in the first nine months of 2001. Airport expansion programmes for Tutuila and Manu'a, which is expected to provide a boost to the local economy, are well under way. In August 2001, the United States Congress approved $5.9 million for runway extension projects. The Pago Pago International airport in Tafuna will get $4 million and the Fitiuta airport will get $1.9 million. Following the terrorist attacks on 11 September, Samoa Air has been awarded more than $16,000 under the federal Air Transportation Safety and System Stabilization Act.[14]

25. American Samoa, through the overseas communications satellite corporate link, has direct telephone dialling to most countries. There is a choice of mobile telephone service providers. Internet service to the World Wide Web is provided by the Office of Communications, American Samoa Government. According to the American Samoa TeleCommunications Authority, American Samoa may become part of the United States domestic calling zone, and calls from the Territory to North America will be considered domestic and not international calls. Some resistance to the application of the TeleCommunications Authority for domestic codes has come from United States long-distance carriers. A decision is expected by the summer of 2002.[15]

E. Water, sanitation system and utilities

26. The American Samoa Power Authority (ASPA), which is government-owned, provides water, waste-water, solid waste and electric services to customers on five of the seven islands. The ASPA provides safe drinking water to 90 per cent of the Territory, with the remaining part being serviced by outer-village systems. It is responsible for restoring, maintaining and protecting the water supply during natural and man-made breakdowns. The daily capacity of the water system is 8.0 million gallons per day from high-quality groundwater and surface sources. Water rates are $1.25 per 1,000 gallons. According to the 2000 census, 72.3 per cent of the 10,052 housing units used the public water system and 19.6 per cent used the village water system as the source of water. In July 2001, the ASPA received a $2.2 million grant/loan from the Department of Agriculture Rural Utility Service to establish the water purification facilities at Fagatogo and Pago Pago, which would provide 1 million additional gallons of water daily.[16]

V. Social conditions

A. Labour

27. The Territory is characterized by low per capita income and a significant unemployment rate. The total labour force of American Samoa consists of 17,664 workers. About one third of the labour force consists of aliens, mostly from Samoa. The largest employer, with approximately 4,282 employees, is the American Samoa Government. The Territory's per capita income is $4,357 and the unemployment rate is 12 per cent. According to the 2000 census, the income per household was as follows: 22.2 per cent of the households earned $15,000 to $24,999; 17 per cent earned $5,000 to $9,999; and 16.4 per cent earned $10,000 to $14,999. As of 1999, there were 34,745 individuals below the poverty level, including 5,072 families with children under 18 years of age, and 865 families with female householders.[17]

28. American Samoa is one of the two United States Territories in which employers are allowed to pay workers less than the mainland minimum wage to ensure compatibility with the prevailing cost of living. Wages in the Territory are set not by federal law but by recommendation of a special United States Department

of Labor committee that reviews economic conditions every two years and establishes minimum wages by industry under the fair Labor Standards Act.

29. In June 2001, a Special Industry Committee reviewed the wages in the Territory and required the canneries to bring the minimum wages to the mainland level, unless evidence is presented that convinces the Committee that such an action would significantly curtail employment. The main cannery companies, StarKist Samoa and COS Samoa Packing, opposed any increase of the wages. The decision was taken to increase the minimum wages on average by 2 per cent as follows: by October 2001, government employees to $2.73; fish canning to $3.26; shipping and transportation to $4.03. In October 2002, the wages will be set as follows: government employees at $2.77; fishery at $3.26; shipping and transportation at $4.09.[18]

30. As was reported in the previous working paper (A/AC.109/2001/17, para. 73), a government-sponsored attempt to launch a garment manufacturing sector involving foreign workers ended with the class-action suit and the case against the Daewoosa garment factory's owner. In April 2002, the High Court of American Samoa found Daewoosa Samoa, its owner, and two Vietnamese government recruiting agencies responsible for the financial plight of the imported workers and ordered the payment of $3.5 million to hundreds of Chinese and Vietnamese workers. These payments are supposed to compensate for the back wages, lower-than-mandated minimum wage rates, illegal fees for obtaining jobs, illegal deductions and other violations. The owner and two former managers of the Daewoosa factory have denied the allegations and maintained that the FBI and the federal court in Hawaii did not have jurisdiction over American Samoa (see also para. 9 above).[19]

B. Education

31. Education is compulsory between 6 and 18 years of age. The educational system in American Samoa is broadly based on the United States pattern. There are 30 public primary, 6 private and 160 village schools. According to the 2002 census, 20,830 children 3 years and older are enrolled in school. Of this number, 54.8 per cent are in the elementary school (grades 1-8), 22.3 per cent are in high school (grades 9-12) and the rest are in pre-school, college or graduate school. With respect to educational attainment, 39.3 per cent of the population 25 years and over are high school graduates; 6.9 per cent have an associate degree; 4.8 per cent have a Bachelor's degree and 2.6 per cent have a graduate or professional degree.

32. American Samoa had the lowest average score in the National Assessment of Educational Progress administered nationwide by the federal Department of Education. The assessment demonstrated that 93 per cent of American Samoa's eighth grade public school students lacked a "basic" mastery of maths and skills that are fundamental for proficient work at that grade level. The territorial Department of Education officials attributed such results mainly to the lack of qualified teachers owing to the low wages offered locally.[20]

33. As one of the measures to improve education, the Government launched two programmes to tutor children in reading and literacy. The "Read to me Samoa" programme expected to receive a direct $300,000 federal grant to expand its public activities. The hired volunteers for the programme work for one or two years and receive a stipend for college savings. In 2001/2002 school year, 2,109 young children were enrolled in the early childhood education programme compared with 1,000 enrolled the previous year. In 2001, the early childhood education programme received $192,000 for facility improvements. According to the Governor, the money went to the construction of new early childhood education centres at Fagatogo and at Alataua Elementary School.[21]

34. In January 2002, the Governor reported that the Department of Education had recruited 50 new teachers with off-island degrees. He also said that there were more students attending school under the territorial scholarship programme. The scholarship budget for 2001 had been overspent by $300,000. The Governor, however, regretted that many graduates did not return to the Territory to work.[22]

35. American Samoa Community College offers two-year degree courses in arts and sciences and programmes offering certificates of proficiency in vocational and clerical skills, business and nursing. In 2001, San Diego State University started to offer bachelor and master's degree programmes in Tutuila, which would enable the student to obtain an advanced college degree without moving off-island. The tuition costs for the San Diego State University programmes vary, and range from about $8,500 to $14,500. Also in 2001, the National University of Samoa started to give

televideo lectures in science, mathematics, English and Samoan to American Samoan Community College. This became possible as a result of meetings between the Governments of Samoa and American Samoa regarding a wide range of issues, such as money, law, telecommunication, education, environment, and health that had been taking place since 1999 as a way of improving bilateral relationships.[23]

C. Public health

36. Most social programmes in the Territory, including those related to public health, are funded by the federal Government. The main hospital in the Territory, the Lyndon Baines Johnson Tropical (LBJ) Medical Center, has 140 beds and a staff of 25 physicians. Medical, dental and pharmaceutical services are available 24 hours a day. For serious cases, off-island treatment, including hospitalization in Guam, Hawaii or the United States mainland, is provided. In January 2002, the LBJ Medical Center sharply increased the fees for its services, including ambulance, hospital beds, wheelchairs, oxygen, etc. This move had been actively discussed in the local press and in the public hearings. The hospital is partially funded through the subsidies of the Department of the Interior and the local Government and used to provide services at minimum fees. However, according to the hospital authorities, the increase was needed to cover the operational costs, equipment, doctors' wages and inherited debts.[24]

37. During the past years, the Public Health Department has been carrying out a filariasis-eradication programme (administering a worm-killing medicine). According to the report it released in January 2002, the programme had planned to cover 85 per cent of the population; however, it succeeded in immunizing just over 57 per cent of American Samoans. The five-year programme was funded by the World Health Organization and the United States Centers for Disease Control.[25]

D. Housing

38. During the period under review, the construction industry continued to lead the economic pace of providing new job opportunities in the Territory. The American Samoa Government has generated $25 million in new monies to be spent for construction purposes. During the years 2000-2001, 14 new construction businesses have been established. An average of 10 building permits have been issued every month for new homes.[26]

E. Crime

39. In his annual address in January 2002, the Governor noted that during the past year there was no major increase in the crime rate. He noted a disturbing and rising trend in cases of domestic violence and cases of possession of controlled substances. The Territory's fight against drug use had been toughened up three years before with the passage of stricter laws that call for mandatory jail terms for first-time offenders. In June 2001, the United States Department of Justice granted $235,722 to American Samoa to continue providing substance abuse treatment to offenders at state and local correctional facilities through the Residential Substance Abuse Treatment for State Prisoners programme. According to the annual report of the Department of Justice, during 2001, American Samoa was awarded $3.8 million for law enforcement and related programmes.[27]

VI. Environment

40. The American Samoa Department of Commerce oversees all construction or earth-moving activities in the Territory and tackles concerns of fishery habitat loss, coastal hazards, including hurricanes, flooding and erosion, marine debris and solid waste. Eight local government agencies review major land activities. During the period under review, the plans of the Government to build a new town in a 3,000-acre area of the forest of Salelologa covered by the conservation agreement has been opposed by the environmental group OLSSI (O le Siosiomaga Society Inc.). The group prepared a report on the ecological impact of the proposed project. The report gave an account of rare and unique species of plants and birds found in the area, and reached the conclusion that construction in the area would lead to an ecological disaster. The group also called to a halt any development in the protected areas.[28]

41. According to the World Wildlife Fund, American Samoa contains one of the 10 most vulnerable forests in the world and only 0.2 per cent of the forest is

protected. The Forest Service of the United States Department of Agriculture, in partnership with the territorial Government, has been implementing a number of programmes aimed at promoting the health and productivity of the Territory's forest lands. These programmes are focused on public education and tree planting, agroforestry, water resources, coastal stabilization, community beautification, late successional rainforest tree species, wood products, wildlife and conservation practices. To help mitigate the effects of human use, the American Samoa Coastal Management Program was established for the coastal zone, which includes all land (126 miles of coast) and sea within 3 miles of the shoreline.

42. In July 2001, new laws regulating the emission standards for vehicles were passed in the Territory. The Motor Car Amendment (No. 2) Act 2001 and the Auxiliary Bicycles Amendment (No. 2) Act, would enable the Government to take measures to reduce emissions that harm the environment and are potentially harmful to the health of residents. Cars and bicycles imported onto the island would have to meet the same standards before being licensed for use on the roads as those used in Europe, the United States and Japan.[29]

VII. Relations with international organizations and entities

43. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian-South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme and the Council of Pacific Arts. It also belongs to such United States organizations as the National and Western Governors' Conferences. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

44. In August 1991, American Samoa, together with two other Territories administered by the United States, Guam and the United States Virgin Islands, established the Alliance of Dependent Territories, an organization that seeks to promote friendly relations and economic and technical cooperation among its members.

45. American Samoa participated as an observer in the Preparatory Committee for the Global Conference on the Sustainable Development of Small Island Developing States, as well as in the Conference itself.

46. American Samoa belongs to various regional bodies of the United Nations system, including the World Health Organization (WHO), the Regional Office for the Western Pacific and the WHO Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies. The Territory has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988 (see A/AC.109/2023, paras. 40-43).

VIII. Future status of the Territory

A. Position of the territorial Government

47. In a statement made in 1993, the Lieutenant-Governor of American Samoa indicated that American Samoa preferred to remain a Territory of the United States (see A/AC.109/1159, paras. 25-31). This position remains unchanged.

48. Before and after the holding of the Special Committee's 2001 United Nations Caribbean Regional Seminar in Havana, the status of American Samoa as a Non-Self-Governing Territory on the agenda of the United Nations was widely discussed in the local press and on the Internet.[30]

B. Position of the administering Power

49. In a statement made at the 82nd plenary meeting of the General Assembly, on 10 December 2001 (A/56/PV.82), the representative of the United States said that his country was fully supportive when countries chose independence and was proud to work with them on an equal and sovereign basis. For Territories that did not choose independence, however, the United States also supported the right of people in those Territories to a full measure of self-government, if that is what they chose. The United States reaffirmed its respect for their rights, which included the options of integration and free association. Given the vast variety of people, places and political circumstances

that existed in the world, the United States believed that a single standard of decolonization should not be applied to every territory and they called on all Member States to respect the choices made by the residents of Non-Self-Governing Territories.

50. In that regard, he said, the United States could not support the draft resolution on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The draft resolution unfairly applied a single and narrow standard for decolonization. Indeed, for the United States, the term "non-self-governing" was of questionable applicability to those who were able to establish their own constitution, who elected their own public officials, who had representation in Washington and who chose their own economic path. Moreover, he said, the United States could not agree with the implication in the draft resolution that the mere presence of military activities and bases in the Non-Self-Governing Territories was harmful to the rights and interests of the people of those Territories. The United States could not support language that would infringe on the sovereign right of the United States.

C. Consideration by the United Nations

51. On 10 December 2001, the General Assembly adopted without a vote resolutions 56/72 A and B, a consolidated resolution on 11 Non-Self-Governing Territories, section I of Assembly resolution 56/72 B being devoted specifically to American Samoa.

Notes

[1] The information contained in the present working paper has been derived from information transmitted by the administering Power under Article 73 *e* of the Charter of the United Nations, and from published and Internet sources.

[2] Bank of Hawaii, 1997 Economic Report: American Samoa.

[3] United States Census Bureau (www.census.gov/census2000/americansamoa.html), 28 January 2002.

[4] *Samoa News*, 23 August 2001, Pacific Islands Report, 18 December, 15 January and 5 April 2002.

[5] *Samoa News*, 17 and 24 August 2001.

[6] Office of the Governor American Samoa (www.asg-gov.com), 23 January 2002, *Samoa News*, February 2002.

[7] State of the Territory Address presented by the Governor, 14 January, 2002, *Samoa News*, 27 August 2001, ibid., 24 August 2001.

[8] *Samoa News*, 28 September 2001; ibid., 24 September 2001.

[9] *American Samoa*, 19 July 2001.

[10] Submission by the United States Government under Article 73 *e*, April 1999.

[11] State of the Territory address presented by the Governor, 14 January, 2002.

[12] Statement of the delegate to the United States House of Representatives before the America Samoan Legislature, 31 January 2002.

[13] *Samoa News*, 11 September 2001.

[14] Pacific Islands Report (www.pidp.eastwestcenter.org/pireport), 24 December 2001; State of the Territory address presented by the Governor, 14 January 2002; *Samoa News*, 27 August 2001.

[15] American Samoa, 19 July 2001.

[16] *Samoa News*, 23 July 2001.

[17] United States Census Bureau (www.census.gov/census2000/americansamoa.html), 28 January 2002; United States Department of the Interior. Office of Insular Affairs. Fact Sheet May 1998 (www.doi.gov/oia/facts.html); Pacific Islands Report (www.eastwestcenter.org/pireport), 11 January 2002.

[18] Pacific Islands Report, 31 May 2001; *Samoa News*, 6 June 2001; *NewsEdge*, 27 August 2001; *Samoa News*, 28 August 2001.

[19] www.asianweek.com/2001_07_27/news_factory.html; *Samoa News*, 13 August, 6 and 26 September, 18 December 2001, 7 February 2002; Pacific Report, 10 December 2001; *NewsEdge* 26 March 2002.

[20] St. Thomas Source (www.onepaper.com/stthomasvi), 29 November 2001; *Samoa News*, 8 August 2001.

[21] Office of the Governor American Samoa (www.asg-gov.com), 23 January 2002; *Samoa News*, 31 August and 7 September 2001).

[22] *Samoa News*, 18 January 2002.

[23] www.census.gov/census2000/americansamoa.html, 28 January 2002, *Samoa News*, 30 May 2001.

[24] *Samoa News*, 8 August, 24 and 27 September 2001, 9 January 2002.

[25] Pacific Islands Report (www.pidp.eastwestcenter.org/pireport), 13 January 2002.

[26] State of the Territory address presented by the Governor, 14 January 2002.

[27] *Samoa News*, 1 January and 5 March 2002.

[28] Ibid., 13 August 2001.

[29] Ibid., 21 July 2001.

[30] Ibid., May-July 2001; www.samoachat.com.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New Caledonia

Working paper prepared by the Secretariat*

Contents

		Paragraphs	Page
I.	General	1–3	2
II.	Political situation	4–33	2
	A. Background	4–8	2
	B. The new governmental structure	9–14	3
	C. Recent developments	15–33	4
III.	Economic data and developments	34–40	8
	A. General	34	8
	B. Mineral resources	35–37	8
	C. Other economic sectors	38–39	9
	D. Labour	40	10
IV.	Consideration of the question by the United Nations	41–52	10
	A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	41–49	10
	B. Special Political and Decolonization Committee (Fourth Committee)	50–51	12
	C. General Assembly	52	12

* The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

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I. General

1. New Caledonia[1] is located in the Pacific Ocean, about 1,500 kilometres east of Australia and 1,700 kilometres north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands (Ouvéa, Maré, Lifou and Tiga), the Bélap Archipelago, the Isle of Pines and Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands. The area of Grande Terre is 16,750 square kilometres, and that of the Territory is 19,103 square kilometres. Nouméa, the capital, is located in the south of Grande Terre. The Territory is divided into three provinces, South and North (on Grande Terre) and the Loyalty Islands.

2. According to the 1996 census, the population was 196,836, comprising indigenous Melanesians known as Kanaks (42.5 per cent); persons of European origin, mainly French (37.1 per cent); Wallisians (8.4 per cent); Polynesians (3.8 per cent); and others, mainly Indonesians and Vietnamese (8.2 per cent). The census also showed almost half the population to be under 25 years old. In January 2002, the Statistics Office estimated the population to be 215,904 and projected that by 2025, the figure would rise to 332,000.[2] The majority of the population (68 per cent) lives in the South Province, mainly around the greater Nouméa area, while 21 per cent live in the North Province and only 10.6 per cent in the Loyalty Islands. In 1996, the native Kanak population made up 77.9 per cent of the population of the North Province and 97.1 per cent of the population of the Islands, whereas it only made up 25.5 per cent of the population of the South Province. With respect to the Territory's second largest population, persons of European origin, 89 per cent of them live in the South Province. About 60 per cent of the population is Catholic and 30 per cent Protestant; 10 per cent profess other religions. The official language is French and about 28 Melanesian-Polynesian dialects are spoken.

3. The Nouméa Accord (A/AC.109/2114, annex), signed in May 1998 between the Government of France, the pro-independence Front de libération nationale kanak socialiste (FLNKS) and the integrationist Rassemblement pour la Calédonie dans la République (RPCR), has fundamentally altered the political and administrative arrangements in New Caledonia. Under the terms of this Accord, the New Caledonian parties opted for a negotiated solution and progressive autonomy from France rather than an immediate referendum on political status. The transfer of powers from France began in 2000 and is to end in 15 to 20 years, when the Territory will opt for either full independence or a form of associated statehood. The political and legislative process which is under way and the new institutional arrangements in place in New Caledonia are described in chapter II. The characteristics of New Caledonia's economy and employment as well as current efforts to implement a policy of redressing economic and social imbalances between the more prosperous South Province and the less developed North Province and Loyalty Islands are described in chapter III.

II. Political situation

A. Background

4. The Nouméa Accord provided for a number of steps towards a negotiated consensual solution for the future of the Territory. As stated in the preamble to the agreement, "this solution will define the political organization of New Caledonia and the arrangements for its emancipation over the next 20 years". Among the steps to be taken were constitutional amendments, the creation of new institutions, the full recognition of Kanak identity and rights, the establishment of parameters for the electorate and the gradual transfer of powers from the French State to New Caledonian authorities.

5. On 6 July 1998, the French Parliament passed a constitutional reform by 827 votes to 31 that inserted two articles, 76 and 77, into the French Constitution. Article 76 provided that the people of New Caledonia would be called upon before 31 December 1998 to express their views on the provisions of the Nouméa Accord. Article 77 provided that, following approval of the Accord, a Constitution would be submitted to a vote in Parliament in order to enable New Caledonia to move forward on the basis of the Accord.

6. Prior to the referendum, the two major parties of New Caledonia, FLNKS and RPCR, had both campaigned for approval of the Accord among their respective constituents. The Accord was ratified by New Caledonians in a referendum held on 8 November

1998. With 74 per cent of the electorate voting, 72 per cent voted in favour of the Accord.

7. Following the referendum, the Secretary of State for Overseas Territories of the Government of France issued a communiqué pointing out that the Nouméa Accord provided for the renewal of relations between France and New Caledonia and would be translated into a draft organic law. This organic law and an ordinary law were presented in the French Parliament. The organic law codified the matters addressed in article 77 of the constitutional reform, namely, the powers that would be transferred to the newly created institutions in New Caledonia, the organization of those institutions, rules concerning New Caledonian citizenship and the electoral regime and conditions and deadlines by which New Caledonians would determine their accession to full sovereignty. The ordinary law dealt with other, mainly economic and social, matters covered in the Nouméa Accord. The French legislature ratified both laws on 19 March 1999.

8. The issue of eligibility to vote in future elections in New Caledonia also required legislative action during 1999 (see A/AC.109/2000/4, para. 22, for coverage of the matter). Still pending is the scheduling of a special session of the French Congress (a joint sitting of both the National Assembly and the Senate) to ratify a constitutional amendment related to voter eligibility (see para. 44 below). In January 2002, Prime Minister Jospin stated in a meeting with the signatories of the Nouméa Accord that he expected this special session to take place as soon as possible. Following Mr. Jospin's defeat in the French presidential elections in April 2002, the FLNKS spokesperson stated to the media that the pro-independence movement feared that this crucial provision of the Accord might not go ahead.[3]

B. The new governmental structure

9. New Caledonia continues to vote in French presidential elections and to elect one member of the French Senate and two members of the French National Assembly. However, the new governmental structure created in the Territory as a result of the entry into force of the above-mentioned organic law is set out below.

10. The Congress is the deliberative assembly of New Caledonia. It comprises 54 members, consisting of 7 from the Provincial Assembly of the Loyalty Islands, 15 from the Provincial Assembly of the North Province and 32 from the Provincial Assembly of the South Province. Members are elected for five years.

11. The Government is the executive power of New Caledonia. It is elected by the Congress and is responsible to it. It is composed of between 5 and 11 members, the exact number to be fixed by Congress prior to the election of the Government. The Government prepares and executes the decisions of Congress. The Government names public and administrative officers, oversees the execution of public works, manages local resources, gives its opinion regarding projects that involve the mines in the Territory and prepares the codification of the Territory's laws.

12. The provincial assemblies are responsible for all matters relating to the province that are not directly attributed to the President of the Provincial Assembly. The President of the Provincial Assembly acts as the executive of the province and, as such, is responsible for the administration of the province and the management of public employment at the provincial level. Members of the Assembly are elected for five years.

13. The Economic and Social Council advises the Government on projects and possible laws that have an economic or social character. It comprises 28 representatives of professional, labour and cultural organizations, 2 members designated by the Customary Senate and 9 personalities that are representative of the economic, social and cultural life of New Caledonia designated by the Government on the advice of the provincial assemblies.

14. The Customary Councils are a parallel set of institutions in eight areas and are designed to accommodate the full political recognition of the Kanak identity. In addition, there is a Territory-wide Customary Senate, comprising 16 members, 2 selected by each Customary Council. The Customary Senate is represented in the Economic and Social Council, the Administrative Council, the Consultative Council on Mines and local development agencies. The Customary Senate and the Councils are to be consulted by the executive and legislative organs of New Caledonia on matters that have to do directly with the Kanak identity.

C. Recent developments

15. Following the ratification of the Nouméa Accord by the people of New Caledonia and the codification of its provisions into French law as described in paragraphs 5 to 7 above, New Caledonia is no longer considered an overseas territory under article 74 of the Constitution. Instead, the Government of France describes it as a community sui generis which has institutions designed for it alone and to which certain powers of State will gradually be transferred and will be non-revocable. Accordingly, the establishment of new institutions proceeded throughout 1999 according to an agreed timetable. The year 2000 was the first complete year during which the new institutions of New Caledonia were expected to exercise their prerogatives. According to the French Government, the institutions remained steady throughout 2001, in spite of uncertainties in the political sphere, and there was progress in redressing the economic imbalance and intensifying regional ties.

16. In May 1999, elections were held for the provincial assemblies and Congress. In the voting for the provincial assemblies, for a total of 74 seats, RPCR obtained a majority in the South Province, while FLNKS obtained a majority in the other two provinces. Of those voted into the provincial assemblies, 54 then became members of New Caledonia's Congress. Thus, RPCR obtained a relative majority of 24 seats in Congress, followed by FLNKS, which obtained 18 seats. In July 2000, the elections were repeated in the Loyalty Islands after the French State Council ruled that there had been irregularities in the handling of proxy votes. The results confirmed the majority held by the FLNKS coalition in the Loyalty Islands provincial assembly and, consequently, the Congressional balance remained unchanged. RPCR Senator Simon Loueckhote was subsequently re-elected Chairman of Congress, defeating the FLNKS nominee.

17. Congress elected the first Government of New Caledonia on 28 May 1999. Presided over by Jean Lèques (RPCR), Mayor of Nouméa, the Government had 11 members, 6 from RPCR, 4 from FLNKS and 1 from the Fédération des comités de coopération indépendantistes (FCCI), a dissident offshoot of FLNKS allied with RPCR. The first municipal elections after the signing of the Nouméa Accord were held in New Caledonia from 11 to 18 March 2001. They resulted in 58 per cent of the vote in favour of the integrationist RPCR, while 37 per cent of the vote supported the pro-independence FLNKS. President Lècques was re-elected Mayor of Nouméa, after which he announced that he wanted to give priority to his responsibilities as Mayor and that he would step down from the Presidency of the Territory. His resignation automatically required the resignation of his Government and new elections to be held by the 54 members of Congress. On 5 April 2001, Pierre Frogier, member of RPCR and of the French National Assembly, was elected New Caledonia's second President. Déwé Gorodey of FLNKS was elected Vice-President. A Kanak university professor, Gorodey is the first woman to hold this position; she also remains in charge of culture, youth and sports. The new Cabinet still reflects an integrationist majority of 7 out of 11 seats; RPCR holds six portfolios and its ally FCCI holds one. On the pro-independence side, FLNKS received three portfolios and one of its components, Union Calédonienne, received one. Subsequently, FLNKS lost a seat (see para. 25 below).

18. The Customary Senate, considered the guarantor of Kanak identity, was formally constituted on 27 August 1999. It has a rotating presidency in order to accommodate each of the seven customary areas. Most recently, in September 2001, High Chief Wanabo of the Laai area was succeeded by Georges Mandaoué of the Ajie Aro traditional area.[4] Currently, the Customary Senate is focusing on land tenure and making French law and customary law compatible.

19. New Caledonia's Economic and Social Council was formally established on 2 February 2000. Headed by Mr. Bernard Paul (RPCR), the Council is composed of 39 members, of whom 28 represent professional organizations, labour unions and associations which reflect the economic, social and cultural life of New Caledonia. The Council continues to be consulted by Congress on all economic and social matters.

20. Regarding French State institutions, in the French Senate elections held in September 2001, incumbent Simon Louekhote of RPCR was elected New Caledonia's Senator for a further nine years. Out of the 484 elected voters (2 National Assembly members, 76 Provincial Assembly members and 406 Municipal Council members), 250 voted for Louekhote, while 174 voted for Marie-Claude Tjibaou (FLNKS).[5] Regarding the French presidential elections, in the first round held on 21 April 2002, Jacques Chirac (RPR) obtained 48.38 per cent of the New Caledonian vote, followed

by 22.42 per cent for Socialist Lionel Jospin and 10.84 per cent for the National Front's Jean-Marie Le Pen.[6] In the second round, held on 6 May 2001, Chirac obtained 80.72 per cent of the vote to Le Pen's 19.58 per cent. Le Pen's increased vote came from European sectors in the Southern Province. The FLNKS call for abstention was largely followed by its supporters in the North Province and the Islands.[7]

21. As foreseen by the Nouméa Accord, in 1999 the new institutions began to enact "laws of the country" (lois du pays), which have the full force of the law and can only be contested before the Constitutional Council. Since 1999, 12 of these laws have been adopted, including seven during 2001 which were mainly related to labour conditions. Still being discussed is a "law of the country" on judicial practice within the traditional palavers.

22. Also set out by the Nouméa Accord are the powers to be exercised in association between the French State and New Caledonia, namely: external relations; entry and stay of foreign nationals; law and order; gambling; audio-visual communication; research, higher education; and secondary education. A number of other services and jurisdictions are to be gradually transferred from the State to the Government of New Caledonia (see A/AC.109/2001/14, para. 21 for a detailed list of jurisdictions to be transferred). So far, the services dealing with labour inspection and foreign trade have been transferred to the territorial Government while those dealing with primary education and the regulation of mining and energy are on the point of being transferred. It is also foreseen that several State bodies may be transferred to the New Caledonian authorities following requests from Congress. According to the Government of France, measures are currently under way for the transfer of the Institut de Formation des Personnels Administratifs (IFPA) and the Office des Postes et Télécommunications (OPT).

23. In spite of the considerable institutional and administrative advances described above, progress continues to be hindered by the friction between RPCR and FLNKS, owing to their differing interpretations of "collegiality" in government matters. The debate grew out of the absence of any precise definition of collegiality in organic law No. 99-209 of 19 March 1999, article 128 of which states simply that the Government is responsible collegially and jointly for matters within its competence. At that time, the election of Léopold Jorédié, a member of FCCI, as Vice-President, rather than Roch Wamytan, President of FLNKS and a signatory to the Nouméa Accord, was judged contrary to the spirit of the Accord by part of the pro-independence camp. Following this, the FLNKS members of the Government chose to appeal to the administrative courts and lodged several appeals against congressional resolutions and government decrees.

24. According to press reports, the new Government, elected in April 2001, under President Pierre Frogier and Vice-President Déwé Gorodey, was initially seen as moving towards a more desirable collegial spirit. The day after the elections in Congress, the President was quoted as saying, "We have decided to together set New Caledonia on a new course and to work in a new spirit". For her part, the Vice-President stated that the members of FLNKS had "repeatedly demanded the Vice-Presidency in order to ensure that the letter and the spirit of the Nouméa Accord are respected". FLNKS leader Roch Wamytan also expressed satisfaction: "the discussions have enabled us to regain our rightful place within the Government, with the Rassemblement occupying the Presidency and FLNKS the Vice-Presidency".[8]

25. However, the opposing positions over the concept of collegiality (see ibid., paras. 23-25) remained acute throughout 2001, with RPCR maintaining that, as a majority, it is obliged only to inform the minority and seek consensus when possible, and FLNKS insisting on participating in the decision-making process in accordance with the spirit of the Accord. Disagreements were evident in September 2001 when the French State Council ruled that there had been irregularities in the April 2001 congressional elections and invalidated the appointment of FLNKS Government member Tino Manuohahalo. This decision further strengthened the RPCR/FCCI coalition, while depriving FLNKS of one of its seats.

26. The political scene was further affected in 2001 by internal divisions within RPCR and FLNKS. Within the pro-integration party, the divisions surfaced in June 2001 when some party members denounced the "monolithic leadership" of its founder and president, Jacques Lafleur. Nonetheless, the leadership isolated the dissidents and Lafleur was re-elected.[9] The divisions within the pro-independence camp have been deeper, especially following the above-mentioned French State Council decision which further weakened

its position within Government. In October 2001, FLNKS expressed its disagreement over the decision and announced that its two remaining Cabinet members, Déwé Gorodey and Roch Wamytan, would not take part in government affairs until FLNKS held its party Congress and reviewed the situation. Shortly after, Mr. Wamytan announced he was resigning from the Government, as the FLNKS "real representation" was no longer reflected in the Executive. However, in early November, the two main components of FLNKS, Union Calédonienne (UC) and Palika, held their respective party conferences and Mr. Wamytan was replaced as president of his own party, UC, by his former deputy, Pascal Naouna. According to press reports, Mr. Naouna's supporters wanted to give UC new internal energy while still supporting Mr. Wamytan as the FLNKS voice in the international arena.[10] The FLNKS Congress convened in November but was unable to resolve disagreements between UC and Palika over whether Mr. Wamytan or Northern Province President, Paul Neaoutyine, should be elected FLNKS president. After further meetings, in December 2001 it was decided that for the coming year, the pro-independence leadership would be placed in the hands of an eight-member, multipartite political bureau with two representatives for each of the four main components of FLNKS (UC, Palika, Rassemblement Démocratique Océanien (RDO), and Union des Partis Mélanesiens (UPM). It was reported that Mr. Wamytan would remain as the FLNKS representative within regional and international bodies. Following the Conference, the FLNKS spokesperson was quoted as follows:

> "Our partners (RPCR and France) must still be able to have FLNKS as a dialogue partner. FLNKS must continue to live and carry on the political struggle. Simply, we are now aware of the limitations of our internal organization. And the Chair problem is only a part of a vast problem".[11]

27. In November 2001, Christian Paul, Secretary of State for Overseas Territories, visited New Caledonia and obtained agreement from both RPCR and FLNKS to hold a second meeting of signatories of the Nouméa Accord in January 2002. The two delegations, led by Territorial President Pierre Frogier of RPCR and by Pascal Naouna of FLNKS, respectively, met in Paris during the week of 22 January. According to the French Government, the discussions focused mainly on the following issues: the FLNKS demand for a special session of the French Congress to pass the Constitutional revision (see paras. 8 above and 44 below) to limit the electorate eligible to vote in New Caledonian elections (it was noted that RPCR opposed such a revision); and the FLNKS view that the exercise of Government was insufficiently collegial and that the signatories of the Nouméa Accord should meet more frequently. The parties also followed up on issues agreed on in the first meeting of the Committee of Signatories, namely: primary and secondary education, professional and technical training and the evolution of the "cadres avenir" (managers for the future) project; external relations (see para. 33 below); Kanak identity and culture; the control over the Territory's utility companies; and environmental protection.

28. Speaking at the start of the meeting of signatories, the Secretary of State referred to the situation in New Caledonia as follows:

> "Here and there, someone will get satisfaction out of taking a pessimistic view of the situation in New Caledonia, emphasizing the areas where progress has lagged and highlighting the obstacles and deadlocks. I would like clearly and unequivocally to contradict what may have been said. One only has to go to New Caledonia, as I did at the end of November, to realize that the divergences, disagreements and differing points of view have not prevented agreement on the essentials: recognition of the ground gained and an obvious determination to continue what has been begun. No one contests the Nouméa Accord; no one wants to undo what has been done since; no one underestimates the importance of this exemplary dialogue".

29. This same view was expressed by Prime Minister Jospin at the closing of the meeting:

> "I also noted that some criticisms were raised about the functioning of institutions, particularly relations between the majority and the minority, but that the progress made in their functioning was recognized. These few problems, which we will have to resolve, should be viewed against the backdrop of the overall success of the Nouméa Accord, a success now acknowledged throughout the Pacific".

30. During the period under review, a new issue has emerged in New Caledonia, namely, violent clashes

between Kanaks and settlers from the French territory of Wallis and Futuna.[12] Recent events took place in the district of Saint-Louis, on the outskirts of Nouméa, where some 1,300 Kanaks and 1,000 Wallisians live. According to press reports, there had been tension for several years following increasing arrivals of Wallisians, but this flared into violent confrontations in December 2001, after which the local Kanak community demanded that all Wallisians leave Kanak tribal land. During disturbances in January, a Kanak man received bullet wounds from which he later died. Further clashes occurred after his funeral mass in February, with police using armoured vehicles and tear gas, followed by sporadic violent outbursts in March and later in April, during which a senior French police officer was severely wounded by gunshots. Meanwhile, differences have emerged between the two Kanak high chiefs in the area, Roch Wamytam of FLNKS and Robert Moyatea of RPCR, both of whom claim to be the custodian of the land on which the Wallisians have settled. According to the media, Aloisio Sako, a Wallisian leader and president of the RDO party within the FLNKS coalition, has reiterated that Wallisians want to remain in New Caledonia to help the Kanaks build their country. Both sides have expressed the hope that the dispute can be resolved through traditional Pacific customary law.[13]

31. According to the French High Commissioner, the inter-ethnic tensions reveal the fragility of the Nouméa process and make it essential for the State and the public in New Caledonia, together with the communities concerned, to work towards redressing the social and economic imbalance in the Territory. A number of meetings have been held to explore ways to solve this situation and its broader implications. According to the media, the French Government is pressing New Caledonia to negotiate a formal agreement on the status of Wallisians in the Territory and is funding a development project in Wallis and Futuna to stem the outflow of the islanders.[14]

32. In a further political development, in a February 2001 press release, entitled "Destabilization in Kanaky/New Caledonia", Roch Wamytan accused the French State of wishing to perpetuate its domination over New Caledonia by using a strategy to neutralize the pro-independence party:

> "The serious events currently taking place in New Caledonia are an illustration of this vast destabilization enterprise. The ethnic conflicts between the Kanaks, the Wallisians and the Futunians in Saint-Louis, the excesses of the strike movements at the Société minière du Sud-Pacifique and the turbulence organized within the pro-independence movement are all part of that strategy of manipulation which is characteristic of colonial States".

Mr. Wamytan called for an inquiry to be conducted under the auspices of the United Nations.

33. With respect to New Caledonia's international relations, the participants at the second meeting of the Committee of Signatories agreed on the importance of developing trade and other relations with the larger actors in the Pacific region (Australia and New Zealand) as well as with other island States and to build on existing links within regional organizations. Another concern expressed was the need to establish better links within the European Union, given its political, commercial and financial importance. The signatories called for legislative steps to grant the President of New Caledonia powers to negotiate and sign international agreements, requested improved coordination between the French State (through its High Commissioner in Nouméa) and the New Caledonian Government, and agreed that New Caledonian professionals should continue to receive training in diplomacy. In keeping with the above, during the period under review, New Caledonia continued to develop its contacts with its Pacific neighbours. FLNKS and the Government of New Caledonia hosted the fourteenth summit of the Melanesian Spearhead Group in July 2001 and Roch Wamytan represented the Government at the meeting of the South Pacific Forum, held in Nauru in August 2001. The President of New Caledonia and Roch Wamytan visited Vanuatu in June 2001 and the Prime Minister of Vanuatu returned the visit in February 2002 to sign an agreement on health, education and youth exchanges. In March 2002, the Minister of Trade of Australia visited Nouméa to sign a memorandum of understanding on developing bilateral trading links.

III. Economic data and developments

A. General

34. The 1996 census data set the active population of New Caledonia at 80,589 people, with an unemployment rate of 18.6 per cent for the entire Territory. Unemployment figures are lower, however, in the South, where the majority of the employment opportunities arise, and higher in the North and the Islands. According to the Institut territorial de la statistique et des études économiques (ITSEE), the average income in the Territory at the end of 2001 stood at approximately US$ 1,930 per month, with employees being better paid in the South Province than in the North and Island Provinces.[15] Although New Caledonia ranks among the affluent Pacific nations and has considerable economic assets, it also suffers from structural imbalances. Therefore, in the context of the Matignon Accords of 1988 (see A/AC.109/1000, paras. 9-14) and the Nouméa Accord, much of the efforts of the Government of France and New Caledonian institutions in the past decade have been aimed at redressing the balance in terms of infrastructure, social services and employment possibilities among the three provinces. In October 2001, the French National Assembly approved a sum equivalent to $38 million for New Caledonia in its 2002 budget, an increase of 11 per cent compared to the 2001 budget. The New Caledonian President pointed out to the media that some of the funds were part of the 2001 budget, especially those related to the gradual transfer of powers from Paris to Nouméa.[16] In January 2002, following the second meeting of the signatories of the Nouméa Accord, the French Government announced that it would inject €350 million ($270 million) into New Caledonia's economic development over the coming decade, to be invested mainly in the nickel industry, tourism and education.[17] The French State also signed into law fiscal incentives to encourage investment in its overseas territories as well as specific tax facilities aimed at strengthening New Caledonia's metallurgy sector. In March 2002, the State signed contracts with nine local government units ("communes") in New Caledonia, eight of them in the North Province, to provide them with average annual funds of €3.8 million from 2002 to 2004. State investment in equipment for the "communes" increased by 36.4 per cent and focused on roadworks, public buildings, new schools, water supplies, sanitation and waste disposal.

B. Mineral resources

35. New Caledonia's economy is dominated by the nickel industry. The Territory has more than 20 per cent of the world's known nickel resources, is responsible for 6 per cent of the world's nickel output and employs some 3,500 people in firms of varying size. Although this is a highly dynamic sector, which makes up 90 to 95 per cent of New Caledonia's exports and which, in turn, generates numerous related economic activities, it is fragile in that it is almost entirely dependent on international demand and nickel prices. Thus, emphasis is currently being placed on the development of local metallurgical production (which creates more wealth) rather than on mineral exports. Although there was sustained international demand for New Caledonian mineral products during 2000 and the value of exports reached a record of $557 million during that year,[18] the sector went through a crisis in 2001. The drop in prices which began in the first trimester of 2001 was further accentuated by the events of 11 September. Thus, average nickel prices in 2001 were $2.70 per pound compared to $3.92 per pound in 2000. According to information provided by the French Government, in spite of this negative trend, mineral extraction figures in New Caledonia in 2001 remained steady and were similar to those of 2000, namely, 57 million humid tons of nickel. In addition, metallurgical production rose for the ninth consecutive year, up 2.6 per cent from 2000.

36. There are currently three major nickel-related projects under way in the Territory which, it is hoped, will lead to significant economic growth (see A/AC.109/2114, para. 8, A/AC.109/2000/4, paras. 30-32 and A/AC.109/2001/14, paras. 33-36, for background). The first project is that of the Société Le Nickel (SLN), (the New Caledonian affiliate of the French State-owned company ERAMET), which announced in July 2001 its decision to invest from €140 to 190 million in its Doniambo smelter to boost production from 60,000 to 75,000 tons per year. This renovation will imply the renovation of three of Doniambo's four smelters and the upgrading of another SLN mining centre. The second project under way is a joint venture between the Kanak-controlled Société minière du Sud-Pacifique (SMSP) and the Canadian

company, Falconbridge, for the construction of a smelter in the North Province to process nickel from the Doniambo deposits. A final decision on the project is due in 2003. It is estimated that this smelter will produce some 60,000 tons per year and create 800 direct jobs and 2,000 indirect jobs. It is also at the heart of a major project to bring wealth and employment to the underdeveloped North Province through the construction of an electric power plant, a deep-water port and a hydraulic dam. Finally, a third project is that of the International Nickel Company (INCO) of Canada, which plans to exploit mineral deposits in Goro, South Province. After monitoring the results of a pilot plant, built in October 1999 to simulate mining conditions on a small scale, INCO confirmed in April 2001 that it would invest some $1.4 billion in a nickel and cobalt mining project. The plant is scheduled to be completed by the end of 2004. Production capacity is expected to reach 54,000 tons of nickel per year and 5,400 tons of cobalt per year, and an estimated 1,000 direct jobs and 1,700 indirect jobs are to be created in the process. Still to be concluded is an agreement for New Caledonia to hold a 5 per cent stake in the Goro plant.

37. According to information provided by the French Government, completion of the Goro project alone would suffice to balance New Caledonia's trade deficit. Nonetheless, some concern has been expressed that foreign labour may have to be brought to the Territory during the construction phase. Meanwhile, there have been labour disputes in the mining sector, most recently in March and April 2002, when workers organized blockages and the occupation of SMSP offices. In addition, growing concerns have been expressed regarding the impact that the two new plants will have on New Caledonia's pristine maritime environment, with the debate becoming more heated after the French Government officially filed a request with the United Nations Educational, Scientific and Cultural Organization for New Caledonia's coral reef to be included in the World Heritage list. According to the media, this step has been denounced by RPCR and welcomed by FLNKS and environmental groups.[19]

C. Other economic sectors

38. Other sectors that contribute to New Caledonia's gross domestic product (GDP) are public administration, commerce, services, construction and public works, small and medium-scale industry, agriculture and tourism. While agriculture and fisheries account only for 2 per cent of GDP, they increasingly occupy a central place in New Caledonian society, employ some 30 per cent of the population and make it possible to contain the rural exodus. Rural development projects are aimed at increasing the local market, thereby decreasing the need for imported goods and further enhancing the possibilities of exporting produce such as prawns and tuna. There has been a steady increase in seafood exports in recent years. The value of seafood exports in 2001 rose by 13.6 per cent compared with 2000. In February 2002, New Caledonia was included in a major fisheries development programme for the French-speaking Pacific funded by the European Union. In March 2002, New Caledonia and Papua New Guinea signed a fishing agreement to develop marine resources in their respective exclusive economic zones.[20]

39. Tourism is regarded as another important sector, but the improvement of airline services remains an important priority for the Territory if it is to be developed further. During 2000, a record 109,587 visitors came to New Caledonia (mainly from Japan, metropolitan France, Australia and New Zealand), but this figure fell by 8.3 per cent in 2001, owing to the financial recession in Japan and the uncertainty of air services. Setbacks to tourism during the period under review included the cancellation of two cruise lines managed by the Florida-based Renaissance Cruises in the aftermath of the events of 11 September; the withdrawal of tours by three major French operators (Nouvelles Frontières, Kuoni and Havas); and the closure of the 600-room Club Méditérranée Château Royal, which was deemed to be unprofitable.[21] In the light of the departure of Corsair, Continental-Micronesia lines and AOM-Air Liberté, and Air France's plan to close down its New Caledonia operations in 2003, the Government of New Caledonia has focused on ensuring sustainable airline links to the Territory and obtaining support from the French Ministry of Transport to this effect. In October 2000, the Government announced it would be acquiring two Airbus A-330 aeroplanes for its flag carrier, Air Calédonie International (AirCalin), so that, as of 2003, Air France would operate the flights from France to Japan, while the two new aeroplanes would be devoted to the Osaka-Nouméa and Tokyo-Nouméa routes. In July 2001, AirCalin received confirmation from the French authorities that 75 per cent of the total cost of

the aeroplanes (estimated to be €228 million) would receive a tax exemption from the State. In the meantime, it is reported that AirCalin is facing dire financial difficulties owing to higher fuel costs, an unfavourable dollar exchange and a sudden increase in insurance premiums. AirCalin losses during the 2000-2001 financial year were posted at over $2 million and a further $1.5 million losses were anticipated for the end of the current financial year. In March 2002, it was reported that the new aircraft were under construction in Toulouse, France.[22]

D. Labour

40. In an effort to create a new framework for labour relations, on 20 October 2000, 11 out of 15 unions and employer groups signed a "social pact". The 20-page agreement was the result of lengthy negotiations led by two members of the Government (members of RPCR and FLNKS) and two presidents of congressional commissions (members of FCCI and FLNKS). The agreement aimed to end the frequent degeneration of labour disputes into strikes and lockouts. It also addressed the issue of minimum wages and improved working conditions. Among the dissenting unions which did not sign the pact was the Union Syndicale des Travailleurs Kana et Exploités (USTKE), reportedly owing to the inclusion of provisions related to mandatory mediation. Immediately after the signing, the Government, in contravention of its commitment to wage moderation agreed to in the pact, decided upon a substantial raise in the minimum salary. The Government's abandoning of the pact was denounced by most of the labour union signatories. Labour disputes during the period under review were mainly within the mining sector and organized by the Syndicat des ouvriers et employés de Nouvelle-Calédonie (SOENC-Mines). In addition, USTKE mobilized a strike within the building company Jean Lefebvre Pacifique to protest the firing of 12 workers. The local strike, which paralysed the building industry for four months, also spread into "roving" general strikes which affected State radio and television, the port, the airport, retail outlets and mines. An agreement signed in July 2001 reinstated most of the dismissed workers and called for an increase in overtime payments.[23] Another labour-related issue in the news in 2001 was the lengthy debate on unified health insurance for all professionals. In spite of the opposition of the self-employed sector and some civil servants, the law instituting the "coverture sociale unifiée" was adopted by Congress on 19 October 2001.

IV. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

41. Representatives of the Government of New Caledonia and representatives of FLNKS participated in the Caribbean Regional Seminar organized by the Special Committee to review the political, economic and social conditions in the small island Non-Self-Governing Territories, held in Havana from 23 to 25 May 2001.[24]

42. The Special Committee considered the question of New Caledonia at its 10th meeting, on 3 July 2001. At the same meeting, a statement was made by Roch Wamytan, president of FLNKS (see A/AC.109/2001/SR.10).

43. Mr. Wamytan said that the 1998 Nouméa Accord, signed between the French State, FLNKS and RPCR, was based on the true will of the Kanak people (who had been made a minority in their own land as a result of a policy of organized immigration), to turn the page of colonialism in order to share and build a common future with other communities living in the Territory. He wished to focus on the difficulties and delays in the implementation of the Accord, especially after the elections of 9 May 1999. Those difficulties were mainly related to the principle of collegiality, which was meant to inform the New Caledonian Executive and to enable the Kanak people to participate in decision-making and in the management of their own country. Their partner in the signature of the Accord, RPCR, had allied itself with a dissident pro-independence group and had used the pretext of majority rule gradually to displace FLNKS from the management of New Caledonia's affairs. The French Government, hiding behind its role as neutral arbiter, had also steered away from the Accord's objectives of collegiality, consensus and shared responsibility.

44. He pointed out that in the previous two months, positive steps had been taken by RPCR. In a speech introducing government policies in May 2001, the new President, Pierre Frogier, had stressed a will to return to "a new political balance with FLNKS". Improved governmental collegiality was evident, for example, in the Vice-Presidency being granted to FLNKS, as foreseen in the Nouméa Accord. He added that difficulties in implementation had led to significant delays in the restriction of the electorate, the protection of local employment and signs of local identity. Regarding the electorate, there were two different interpretations: FLNKS believed that the right to vote should be restricted to those living in New Caledonia in 1988, their descendants and those who had arrived between November 1988 and October 1998, who could prove 10 years of residence. RPCR wanted the right to vote extended to all those who could prove ten years of residence. The matter had already been settled in favour of the FLNKS interpretation by the French National Assembly and by the Senate. All that remained was ratification by the National Congress (a joint session of the National Assembly and the Senate). Unfortunately, the session scheduled for March 2000 had been postponed indefinitely owing to internal political reasons. The issue of the protection of local employment was also clearly reflected in the Nouméa Accord, but the laws of the country, which should have been implemented, had not been properly discussed by the signatories of the Accord. Another essential pending matter was the construction of common signs of identity for a future State.

45. Mr. Wamytan said that those difficulties had eroded the confidence of the population in the future. A recent survey showed that public confidence in the implementation of the Accord had declined throughout 2000. In two years' time the people of New Caledonia would be marking 150 years of French presence. The FLNKS aim remained independence, the cause for which many of its militants and leaders had died. There was no room for other options, be they integration, association with the administering Power, or even the "third way" recently proposed in the context of Western Sahara. None of those institutional arrangements fitted in with the FLNKS political vision for the future. The Kanak people wanted autonomy currently, followed by the exercise of the right to self-determination in accordance with the Nouméa Accord and full independence in the future. Those were the steps leading to national sovereignty.

46. The Kanaks comprised some 100,000 of New Caledonia's total population of 220,000. It was a land of huge natural resources from which they should benefit. Currently, there was nickel and cobalt; in the future there would perhaps be oil and gas reserves discovered through the exploration of the continental plateau. Those resources were, no doubt, coveted by the major economic and financial powers. New Caledonia was also in the limelight owing to its exclusive economic zone and its privileged position in the Pacific region. The recent meeting of the world's nickel firms in Nouméa was an example of what New Caledonia could represent in world economic strategy. With the development of the Canadian Falconbridge nickel plant and the Kanak-controlled SMSP plant, the production of nickel processed in situ could make New Caledonia a "price-maker" in the world nickel market. For FLNKS, the exploitation of those natural riches must form the basis for their political emancipation.

47. He called upon the French State to accompany the process of decolonization and the emancipation of the Kanaks and the non-Kanaks associated with the process. France was the colonizer and continued to be the administering Power. It was with the French State that FLNKS, the legitimate representative of the Kanak people, had started the discussion of the colonial issue in 1988 which had led to the Nouméa Accord. The French State was the main actor in the process and could not limit itself to the role of arbiter between two parties. In the eyes of FLNKS, RPCR was a party to the Accord, but it was not New Caledonia's colonizer. While recognizing the highly positive role played by the French State in New Caledonia since the signing of the Matignon Accord, FLNKS must appeal for its constant vigilance. Too much passivity by French representatives in the former colonies could lead FLNKS to doubt the real will of the State to stand by the emancipation process.

48. Mr. Wamytan appealed to the French State to remain vigilant of the process. FLNKS would draw lessons from past colonial and neo-colonial practices, would be alert to the just implementation of the Accord and was ready to point out any deviation from its principles. If the deviations came from the French State, FLNKS would say so, with all due respect for the dignity of the State. If the deviations came from RPCR, FLNKS would also say so, without endangering the political contract signed in 1988 and 1998. On the contrary, FLNKS wished to avoid obstacles and to

participate in the success of an accord which was the guarantor of peace and harmony in New Caledonia. The United Nations, in its historic mission, should also accompany the process, especially during the decade 2001-2010.

49. At the same meeting of the Special Committee, statements were also made by the representatives of Papua New Guinea and the Congo. Subsequently, the representative of Papua New Guinea introduced draft resolution A/AC.109/2001/L.14, which, he said, contained some technical changes, took into consideration recent developments and had been the subject of consultations with the delegations of France and New Caledonia. The Special Committee adopted the draft resolution without a vote (A/AC.109/2001/28).

B. Special Political and Decolonization Committee (Fourth Committee)

50. At the 4th meeting of the Special Political and Decolonization Committee (Fourth Committee) on 9 October 2001, the representative of Fiji, referring to New Caledonia, said that having long been an advocate of decolonization and independence, particularly for peoples in the Pacific region, Fiji reiterated its continuing interest in the progress thus far achieved for the Kanak people in New Caledonia under the Matignon and Nouméa Accords. Fiji especially welcomed the fact that a climate of peace and amicable cooperation had reigned during that political process. Already the Kanak leadership had been able to participate meaningfully in its own right in various regional initiatives, including, for the first time, as host of the South Pacific Festival of Arts, Chairman of the Melanesian Spearhead Group and host of the spearhead Group summit. Other activities gave credibility to the Caledonian institutions, their workings and the implementation of the Nouméa Accord (see A/C.4/2001/SR.4).

51. At its 7th meeting, on 16 October 2001, the Fourth Committee adopted the draft resolution on the question of New Caledonia without a vote (A/C.4/2001/SR.7).

C. General Assembly

52. At its 82nd meeting, on 10 December 2001, the General Assembly adopted resolution 56/70 on the question of New Caledonia without a vote (A/56/PV.82).

Notes

[1] The information contained in the present report has been derived from information transmitted to the Secretariat by the Government of France on 2 May 2002 and from published sources.

[2] Oceania Flash, 12 April 2002.

[3] Radio Australia, 24 April 2002.

[4] Oceania Flash, 10 September 2001.

[5] Oceania Flash, 24 September 2001, and *Le Monde*, 25 September 2001.

[6] Agence France Press, 22 April 2002, and *Le Monde*, 23 April 2002.

[7] Les Nouvelles Calédoniennes, 6 May 2002.

[8] Les Nouvelles Calédoniennes, 6 April 2001.

[9] Oceania Flash/SPC, 26 June 2001.

[10] *Le Monde*, 19 October and 6 November 2001; Agence France Press, 17 October and 4 November 2001; Oceania Flash, 22 October and 7 November 2001.

[11] Oceania Flash/SPC, 24 December 2001.

[12] There are about 20,000 Wallisians in New Caledonia, more than those remaining in the Territory of Wallis and Futuna.

[13] Oceania Flash, 10 December 2001, 11 and 13 February 2002, 23 April 2002; Radio Djiido/PINA Nius, 17 February 2002; Agence France Press, 2 April 2002; Radio Australia, 4, 5 and 15 April 2002.

[14] Economist Intelligence Unit, 21 March 2002.

[15] Oceania Flash/SPC, 19 December 2001.

[16] Oceania Flash, 31 October 2001.

[17] Agence France Press, 22 January 2002, Economist Intelligence Unit, 21 March 2002.

[18] Economist Intelligence Unit, 29 August 2001.

[19] *Le Monde*, 28 February 2002.

[20] Communiqué from the Secretariat of the Pacific Community, 25 February 2002, and National/PINA Nius Online, 4 March 2002.

[21] Oceania Flash/SPC, 3 October 2001, and Agence France Press, 14 November 2001.

[22] Agence France Press, 22 July 2001; Oceania Flash/SPC, 16 October 2001; Oceania Flash, 4 March 2002.

[23] Oceania Flash, 31 July 2001.

[24] See *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 23* (A/56/23), chap. II, annex.

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Turks and Caicos Islands

Working paper prepared by the Secretariat*

Contents

		Paragraphs	Page
I.	General	1–2	3
II.	Constitutional, legal and political issues	3–6	3
III.	Economic conditions	7–29	4
	A. General	7–8	4
	B. Public finance	9–13	4
	C. Financial services	14–17	5
	D. Agriculture, fisheries, construction and manufacturing	18–20	5
	E. Tourism	21–24	6
	F. Infrastructure	25–29	6
IV.	Social conditions	30–49	7
	A. General	30–31	7
	B. Labour	32–36	7
	C. Education	37–40	8
	D. Health	41–43	8
	E. Crime	44–47	9

* The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

02-38247 (E) 310502

F. Environment 48–49 9

V. Relations with international organizations and entities 50–52 9

VI. Future status of the Territory 53–61 10

A. Position of the territorial Government 53 10

B. Position of the administering Power 54–60 10

C. Consideration by the General Assembly 61 11

I. General

1. The Territory of the Turks and Caicos Islands[1] comprises 40 islands and cays, which lie 145 kilometres north of Haiti and the Dominican Republic and 925 km south-east of Miami, United States of America. Of these islands, only six are permanently inhabited: Grand Turk, where the capital, Cockburn Town, is located; Salt Cay; South Caicos; Middle Caicos; North Caicos and Providenciales. The total population of the Territory was estimated at 24,000 in 1999, including some 5,000 to 6,000 immigrants from Haiti and the Dominican Republic. Most of the population resides on the two principal islands, Grand Turk, which is the administrative capital, and Providenciales, which is the business centre of the islands. Of the other populated islands, South Caicos has 10.5 per cent of the total population; North Caicos 11.1 per cent; Middle Caicos has 2.3 per cent; and Salt Cay, 1.8 per cent. Most of the people are of African descent, the rest being mixed or of European origin. English is the main language, with some Creole spoken by Haitian immigrants. The religion is Christianity; the Anglican Communion predominates.

2. The Turks and Caicos Islands were discovered by the Spanish in 1512. In 1678, Bermudans established a solar salt industry. The Islands were settled by royalist sympathizers from the United States after the War of Independence; they established cotton plantations, employing slaves. Between 1833 and 1843, slavery was abolished and the plantation owners left the Islands, leaving their former slaves in possession. From 1874 to 1959, the Turks and Caicos Islands were governed by Britain as a dependency of Jamaica. The Islands became a separate colony of the United Kingdom in 1962, under the control of the Bahama Islands, but with Bahamian independence in 1973, the Turks and Caicos were placed under a British Governor at Grand Turk.

II. Constitutional, legal and political issues

3. The Turks and Caicos Islands is a Non-Self-Governing Territory of the United Kingdom with a ministerial system of government. Under the provisions of the 1976 Constitution, amended in 1988, executive power is vested in the Governor, appointed by the Queen. The Constitution provides for an Executive Council and a Legislative Council. The Governor is responsible for foreign affairs, internal security, defence, the appointment of public officers, offshore finance and certain other matters, but is otherwise required to act on the advice of the Executive Council. The Executive Council consists of the Governor, six elected members of the Legislative Council and two official members (Chief Secretary and Attorney General). The Legislative Council consists of 19 members. There are 13 representatives elected by popular vote, 3 appointed by the Governor and 3 ex officio members of the Executive Council.

4. The legal system, based on English Common law, includes a Supreme Court and a Court of Appeal, and has provision for appeal to the Privy Council in London. The Attorney General and Chief Justice are currently United Kingdom technical cooperation officers, as are the Senior Crown Counsel, the Legal Draftsman, the Deputy Commissioner of Police and the Head of the Criminal Investigation Division. The Police Development Project supports the provision of a further two technical cooperation officers: an Assistant Commissioner of Police and a Financial Crimes Investigation Officer.

5. The current Governor, John Kelley, was appointed in 1996. Chief Minister Derek Taylor was sworn to office in 1999. In April 2002, Jim Poston was appointed Governor for a term of office beginning in November 2002.[2]

6. In March 1999, the Government of the United Kingdom issued a White Paper on the relationship between the United Kingdom and its Overseas Territories, entitled "Partnership for progress and prosperity: Britain and the Overseas Territories" (for the text of the White Paper, see A/AC.109/1999/1, annex; for its key recommendations, see A/AC.109/1999/18, para. 37). The White Paper proposed the extension of British citizenship to the citizens of the Territories. At the same time, it required the Territories to amend their local legislation, in particular on human rights and on the regulation of financial services to meet international standards. The Bill completed a three-step process through the House of Lords in 2001, and completed its third reading in the House of Commons in February 2002. It received Royal Assent on 26 February 2002 and became the British Overseas Territories Act 2002. On 18 March 2002, Baroness Amos stated that the British Government was putting into place arrangements to implement the citizenship provisions, the

commencement date of which would be announced no later than 21 May.[3]

III. Economic conditions

A. General

7. Since the 1980s, the main sectors of the economy have been upmarket tourism and international financial services. Foreign investors, mainly from Canada, the United Kingdom and the United States, play a significant role in the Islands' economic life. The main areas of private investment are tourism property development, real estate, international finance and fishing, focused on the island of Providenciales.

8. According to the economic review released by Oxford Analytica, an international consulting firm, in February 2002, the economic fundamentals of the Territory are robust. The average gross domestic product (GDP) growth reached approximately 8 per cent per year during the last decade, rising from $69 million in 1990 to $199 million in 1999. Although unemployment never fell bellow 12 per cent, and the growth was unevenly distributed between the constituent islands, the economic well-being of the population was assessed as having improved considerably. The review stated that the sound economic basis had helped to cushion the economy from the consequences of the 11 September attacks on the United States. However, the tourist and the financial sectors of the economy suffered badly. According to the Governor's statement before the Chamber of Commerce in March 2002, the economy was still under strain. The British Government had embarked on a study of the impact of the 11 September attacks on the local economy and where it could provide assistance.[4]

B. Public finance

9. The current budget is usually in substantial deficit, which is covered by funding from the United Kingdom and, to a lesser extent, the European Union and multilateral agencies. The Government levies no taxes on corporate or personal income, capital gains or inheritance. The largest component of current revenue is customs duty, while company registration fees and tourism levies have produced an increased share in recent years.

10. According to the *Europa Yearbook 2001*, in the financial year ending 31 March 2001, the Government expected a recurrent budgetary deficit of $0.06 million. The Territory received a total $8.2 million in British development assistance. During the second quarter of 2001, the Government collected $45,025,589 in revenues compared to $31,608,188.62 for the same period the previous year.[5]

11. The budget is projected on a biennial basis with the fiscal year beginning in March. For 2000-2001, the Government of the Turks and Caicos Islands estimated a total revenue of $67,051,624 and expenditures of $67,111,389. The Government expected to collect 44 per cent of the revenue from duties; 15 per cent from fees and charges; 13 per cent from licences; 1 per cent from rent; 16 per cent from taxes and 11 per cent from other sources. Its recurrent expenditures were projected at 30 per cent for education, health, youth and sports; 11.2 per cent for public works; 13.6 per cent for communications, transport and tourism; 3.3 per cent for natural resources; 6.9 per cent for home affairs; 7.9 per cent for police; 21.1 per cent for the Office of the Chief Minister; 0.5 per cent for the Office of the Governor; 2.3 per cent for the Office of the Chief Secretary; 1.5 per cent for Attorney General's Chambers; 1.2 per cent for the Judiciary and 0.5 per cent for the auditors.

12. The Government's capital budget estimates form the basis of the public sector investment programme, which is financed through the Development Fund. The Fund was established for the purpose of receiving such monies as might be appropriated annually from the Consolidated Fund, together with other monies received from external donors. External donors include the Government of the United Kingdom, whose funds are administered through the Dependent Territories Regional Secretariat ($5.2 million), the European Union ($1.5 million), the Caribbean Development Bank ($100,000), and the United Nations Development Programme (UNDP).[6] The budget figures for 2002 are not available.

13. In February 2002, the Governor stated that the British Government was going to help to stabilize the financial system and to enable "better control" of government finances and accounting through a Caribbean Overseas Territories Government Accounting Regime. He pointed out that that

mechanism would allow the territorial Government to better control the economy, including the expenditures and the revenues. According to the Governor, although all necessary local regulations are in place, the collection of revenue remains a "problem area" and much revenue remains uncollected every year.[7]

C. Financial services

14. Constitutional responsibility for the Turks and Caicos Islands' offshore finance sector rests with the Governor. The United Kingdom Technical Cooperation Programme supports the sector through the provision of the Superintendent and the Deputy Superintendent of the Financial Services Commission. The regulatory structure set up through the Banking Ordinance of 1979 and the Companies and Insurance Ordinance of 1981 was updated and extended in 1990 and 1992.[8] Among the attractions for offshore companies are the use of the United States dollar as the official currency, the absence of direct taxation, a growing financial infrastructure, fast and straightforward company registration procedures, extensive financial freedom and confidentiality.

15. Offshore finance is the second largest source of external revenue after tourism and the third largest employer in the Territory. It contributes 10 per cent to GDP. The number of major international accounting and financial service companies that operate out of Providenciales is more than 17,000.[9]

16. In June 2000, the Organisation for Economic Cooperation and Development (OECD) published a list of 35 countries, including the Territory of the Turks and Caicos Islands, labelled as offshore financial centres, which exercised harmful tax practices. Turks and Caicos have made considerable efforts in the financial services industry to maintain its high reputation. According to the Government Information Services, since the late 1900s, the Territory has introduced legislation to help detect and combat drug trafficking and money-laundering. They included the Control of Drugs (Trafficking) Ordinance (1998); the Proceeds of Crime Ordinance (1998); and the Proceeds of Crime (Money Laundering) regulations. In 2001, the United States Internal Revenue Service (IRS) had granted the Turks and Caicos Islands "qualified jurisdiction" status, allowing Turks and Caicos financial institutions to deal in United States securities and to receive income, including dividends, royalties and gross proceeds from the United States.[10] In March 2002, OECD removed the Turks and Caicos Islands from the list of uncooperative tax jurisdictions.[11]

17. At the same time, press reports pointed out that efforts to improve the Government's control over the financial sector would have to continue. In connection with the Enron Corporation, it became known that about 120 of its affiliated companies were registered in the Turks and Caicos. In March 2002, at the request of the British Foreign Secretary, millions of dollars deposited in the Turks and Caicos Islands by Zimbabwe's recently re-elected president, were frozen.[12] In February 2002, the Governor announced that the International Monetary Fund (IMF) would investigate the financial services system in the Territory and warned that in the future the jurisdiction would be "subjected to yet more scrutiny". He said that the local legislation allowed international financial institutions like the IMF "to ensure that it has in place the regulation required to pass whatever the test there might be". He maintained that "painful as it may be" for a relatively small financial service industry, in order to compete with larger countries the Territory would have to comply with the international standards.[13]

D. Agriculture, fisheries, construction and manufacturing

18. Agricultural production is small and concentrated in North Caicos. The sector has begun to grow recently, with more produce available for sale in Providenciales and the establishment of a new farmers' cooperative. Fishing, a traditional activity, is the only significant productive sector and contributes 2-3 per cent to GDP. Conch and lobster are the main catches. About 20 per cent of the working population is involved in agriculture and fishing. The Turks and Caicos Islands is home to the world's only commercial conch farm, raising domestic conch for export. Several fish farms are being developed on an experimental basis to produce tilapia for international markets. The production of high-value, value-added and specialty export products has an important potential for growth and investments in the Territory. Some examples include: fin fish and shrimp farming, tropical fish breeding, hydroponic gardening and ornamental horticulture.[14] The demand for local farm produce exceeds the supply. The Government attempts to attract

investments for the development of agriculture by organizing farming cooperatives in North and Middle Caicos and hydroponic gardens in Providenciales to supply the existing resorts.[15]

19. Apart from the production of handicrafts for the tourism trade, the only manufacturing activity is the semi-processing of imported rice for re-export to the European Union, benefiting from duty preferences under the Lomé Convention. Operations were begun in 1994 but have been reduced since early 1997, when the European Union imposed a restrictive quota on rice imports from African, Caribbean and Pacific countries via the overseas countries and territories regime.[16]

20. An international construction company is based in the Turks and Caicos Islands. Sand and rock are quarried locally for use in construction projects, most significantly for hotels and commercial buildings.[17] The construction and real estate market continues to grow. It includes domestic housing and various upmarket resort and beach properties.

E. Tourism

21. The Turks and Caicos Islands tourism sector continues to record one of the fastest growth rates in the entire Caribbean. A total of 165,192 tourists visited the Territory in 2001, which is an 11 per cent increase over the previous year. Tourists from the United States comprised 124,959 visitors, 15,257 visitors came from Canada, 11,073 came from Europe and 6,916 came from Caribbean countries. Of the total number of tourists, 119,280 stayed in the hotels.

22. The terrorist attacks of 11 September had a limited effect on the tourist industry. The hotels in the Territory reported a fall in business in the last quarter of 2001, which had a further damaging effect on associated economic activities. Nevertheless, the Turks and Caicos Islands were the only Caribbean tourist destination where the total number of visitors was higher in 2001 compared with 2000. According to Oxford Analytica, one of the key factors of the Territory's tourist appeal was the extent and frequency of the airline connections, especially with the United States, as well as the fact that the generally richer-than-average clientele was less affected by the economic slowdown.[18]

23. In January 2002, the Government received a $16 million package-advertising programme as a part of Caribbean governments strategy to combat the fall of tourism. The programme is a joint public/private sector initiative, and complements a marketing initiative that the Caribbean Tourism Organization (CTO) is already implementing in key marketplaces.[19]

24. In January 2002, the Tourist Board Officials announced that the Territory was experiencing "boom times" with more visitors in December. Major hotels reported between 90 and 100 per cent occupancy levels and tour companies reported increased activities. In March 2002, *Caribbean Travel and Life* magazine granted the Turks and Caicos Islands the award for the Best Undiscovered Destination.[20]

F. Infrastructure

25. Transport and communication facilities are of a good standard, reflecting the Territory's relatively high income and the developing offshore financial sector. There are international airports on Providenciales, Grand Turk, North Caicos and South Caicos, and paved airstrips on Middle Caicos and Salt Cay. American Airlines, Trans World Airlines and Delta Air Lines operate to the United States. British Airways has provided services since June 2001. In season, there are charter flights from several North American cities, including Boston, Chicago, Detroit, New York, Philadelphia and Toronto. Inter-island services are provided by Turks and Caicos Airways and numerous local charters. Flights are available to the Bahamas, Haiti, the Dominican Republic, Puerto Rico, Cuba and Jamaica. Grand Turk, Providenciales, South Caicos and Salt Cay have ports. The road network covers about 130 kilometres, with paved roads on Grand Turk, Providenciales and the Caicos Islands.

26. Cable and Wireless, a British telecommunications company, provides domestic and international telephone services. There are 12 cable channels on Grand Turk and 32 on Providenciales, and six radio stations. There are no daily newspapers. The *Free Press* and the *Turks and Caicos News* are published weekly, and the *Times of the Islands*, a magazine aimed at business and tourism, is issued quarterly. All electricity services are operated by private companies, with diesel generators and to United States standards of supply and reliability.[21]

27. In July 2001, the United Kingdom appointed a consultant to look into Britain's Overseas Territories

interest in the Caribbean in connection with the calls to end the monopoly of Cable and Wireless by introducing competition to the market. An agreement between Cable and Wireless and the Organization of Eastern Caribbean States (OECS) countries has resulted in a 12-to-18-month transition period for any infiltration into the market. In March 2002, the Minister of Immigration, Tourism and Communications announced that a new company will enter the market by mid-year.[22]

28. In the meantime, Cable and Wireless has taken steps to improve its services. In September 2001, it started a massive expansion of the facilities at the Leeward Highway office, including additional operation space, a new Customer Service Centre and the construction of storage facilities. Furthermore, the company donated 46 Dell computers to the government educational institutions around the Territory. This donation is in addition to free Internet access provided by the company to schools at the end of 2000.[23]

29. Another company, WIV Cable TV, will be spending $4 million to improve services to residents in Providenciales. In 2002, it will expand a 750-megahertz fibre optic line which will result in better TV service. A total of 147 miles of cable will be replaced. Ground work for the expansion has already been completed, including design of a new 6,000-square-foot headquarters and mapping of the cable system. The actual infrastructure will take approximately one year to finish and will create 30 additional construction jobs and four permanent positions.[24]

IV. Social conditions

A. General

30. The expansion in the tourism and offshore finance sectors has resulted in favourable economic growth, but activities in that area are concentrated almost totally on one island, Providenciales. Thus, economic opportunities are not equally distributed among the islands. Unemployment varies between 14 and 20 per cent on the other islands, while Providenciales boasts almost full employment. Inter-island migration is common, particularly migration to Grand Turk, where the capital is located. A number of social problems, such as overcrowding, housing shortages and an increase in the number of female-headed households, have resulted from this skewed pattern of development.[25]

31. In September 2001, the Chief Welfare Officer acknowledged at a human rights symposium that there was a need to review and rewrite legislation across the Caribbean, and, in particular, the Turks and Caicos Islands for the safeguarding of family, children and women's rights. In February 2002, the Legislative Council passed amendments to the immigration laws, paving the way for children born out of wedlock to men of the Turks and Caicos Islands to have full rights of citizenship.[26]

B. Labour

32. One of the social problems in the Turks and Caicos Islands that requires serious attention is finding an acceptable balance between providing the Territory's nationals with employment and a more meaningful role in the economy and meeting a growing need for qualified personnel in such industries as tourism and financial services. Regional differences in employment are significant. Unemployment on Providenciales is the result of an imbalance between demand and supply for skills and the unwillingness of many "Belongers" (local islanders) to take certain jobs. This has led to a dependence on immigration and an influx of immigrant workers. Of an estimated population of 24,000, some 5,000 to 6,000 immigrants are from Haiti and the Dominican Republic. The geographical location of Turks and Caicos and relative prosperity makes it an attractive destination for job seekers from neighbouring countries.

33. The Government undertakes constant efforts to deal with the problem of illegal immigration, including forced repatriation. It received assistance from the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees.[27]

34. As was reported in last year's working paper (A/AC.109/2001/7, para. 53), the Government was revising the rules for granting so-called "Belonger" status and work permits to foreigners. In September 2001, the Executive Council reduced significantly the fees for work permits in the skilled category. The reductions in fees ranged from 50 to 75 per cent and affected more than 10 specific job titles. At the same

time, in February 2002, the Business Licensing Division of the Ministry of Finance enumerated 21 areas of business activities that were reserved for persons with "Belonger" status. Restrictions in business activity range from accountancy to trade and ownership or operation of private schools.[28]

35. With respect to the "Belonger" status, in January 2002, the Government stated that foreigners who are categorized as skilled or professional would no longer have permits renewed beyond the four-year period. For unskilled persons, the ceiling would be three years.[29]

36. In January 2002, the Ministry of Tourism, Communications, Immigration, Labour and Transport announced plans to develop proposals for amendments to Turks and Caicos labour law, concerning the "freedom of association", which would provide recognition of the trade unions and bargaining rights of the employees, as well as provisions on discrimination, registration and work permits.[30]

C. Education

37. Education in the Territory is free and compulsory for children between 5 and 16 years of age. There are 14 government-run primary schools and 4 government-run secondary schools. The adult literacy rate is 98 per cent. The pupil-teacher ratio averages 25:1.

38. The quality of education continues to be an issue of concern. In June 2001, the results of the primary school G-SAT test, which determines the eligibility for entering the government high schools, showed that out of 422 students only 181, or 42 per cent, passed the examination. However, primary schools in Providenciales have performed consistently well in the G-SAT despite the 10 per cent increase in the pass mark. (Until 1998 the pass mark was 30 per cent, but was revised upwards to 40 per cent in 1999 and 2000, and to 50 per cent in 2001.)[31]

39. A significant expansion of education facilities has already taken place according to the Chief Minister. Further inputs of over $1.6 million from the United Kingdom, $2.2 million from the Caribbean Development Bank and $500,000 from the territorial Government are to be made to continue the upgrading of the primary and secondary schools and the Community College. In June 2001, the Government formally turned over to the principal the keys to the $5 million Community College campus in the capital city, Grand Turk. The first stage of the project involved refurbishing three buildings of the Old Navy Base into the classroom and administrative facilities. The second phase will include the completion of the dormitory facility for students from across the Islands.[32]

40. In September 2001, the Education Minister announced that scholarships for recent high school graduates could also be used at the British West Indies Collegiate and the Community College.[33]

D. Health

41. Basic health care is available on the islands through a network of primary health care clinics and one hospital, located on Grand Turk, the capital island. The Government has sought to address infrastructural needs, especially on the island of Providenciales, which has a high population growth rate.[34]

42. According to the World Health Organization, the illegal migrant population presents a major challenge for the Territory. These people often live under poor conditions, and there is a recorded increase in the incidence of communicable diseases, especially tuberculosis, among them. This situation also places an additional strain on the Territory's health system.

43. In June 2001, the Government announced a programme which would further improve health service in the Territory. It includes a new $50,000 improvement of the facilities at the hospital in Cockburn Town (the installation of a laparoscopy and mammography unit, a new ultrasound machine, a physical therapy and rehabilitation system and an echocardiography programme). The monies were in addition to the $825,300 Grand Turk Remedial Work project, which started in 2001 and will continue until 2003. Grand Turk will also benefit from a $50,000 Maternal and Child Clinic extension project, the $35,000 mental health programme and $10,000 new nutrition programme. The completion of the Sandy Point Clinic in North Caicos was estimated at $21,450 and an improvement in the clinic in South Caicos at another $25,000. The Government would also spend $811,797 on medical projects in Providenciales and would invest $533,797 in phase one of the Myrtle Rigby Health Clinic expansion, with the last injection of funds totalling $390,000 to be spent by the end of 2002. The Government also plans to spend an additional $3 million over a three-year period on

overseas medical treatment in the event of catastrophe.[35]

E. Crime

44. In January 2002, the head of the Criminal Investigation Department stated that the police in the Turks and Caicos Islands was in control of the crime situation. During the year 2001, there were 1,401 acts of crime, of which 30 per cent have been solved. He stated that in 2000, the detection rate was 35 per cent (435 offences) and in 2001, it was 38 per cent (532 crimes solved). Out of 1,401 crimes investigated, 801 or 57 per cent were burglaries and thefts. A total of 479 persons were arrested and charged with offences. Of this number, 365 were local offenders, including 311 adult males and 20 adult females, 24 juvenile males (compared to 9 juvenile male arrests in 2000) and 1 juvenile female. Among those who were arrested, 123 were aliens (101 adult males, 20 adult females, 1 juvenile male and 1 juvenile female), with the majority arrested for drug offences.[36]

45. Drug trafficking remains a problem in the Territory. According to the Caribbean Financial Action Task Force Mutual Evaluation, the Turks and Caicos Islands has been used as trans-shipment points for drug traffickers, and several seizures of cocaine have been found on Haitian carriers at Providenciales Airport in amounts of up to one kilogram. Illegal drugs are most often brought into the Territory in boats circulating between Haiti and Turks and Caicos. Illegal drugs are also coming from Jamaica, the Dominican Republic, the Bahamas and Colombia. The Police Department reportedly is determined to work with other national agencies, including the Customs and Welfare Departments to apprehend and prosecute offenders.[37]

46. Royal Navy and Royal Air Force attachments to the Police Force have enhanced the Turks and Caicos Islands' ability to combat drug trafficking. The Islands enjoy close cooperation with the United States and Bahamian narcotics agencies under an agreement extended to the Turks and Caicos Islands in 1990, thus allowing for combined United States/Turks and Caicos Islands/Bahamas interdiction operations. In 2000, an agreement on counter-drugs cooperation between the United States and the United Kingdom, also on behalf of the Non-Self-Governing Territories in the Caribbean, came into force. The agreement aims at better international cooperation in the fight against drug trafficking in the waters of the Caribbean and at closer coordinated operations and air and sea surveillance in the region.[38]

47. Illegal drug convicts are mostly young people between the ages of 15 and 30. During 2000, 118 persons were charged and 80 persons were convicted in this category. In July 2001, the Educational Minister announced that drug use was becoming a norm in high schools. Last year in Clement Howell High School in Providenciales nine students were found smoking marijuana in the bushes adjacent to the school.[39]

F. Environment

48. The Turks and Caicos National Trust is a membership-based voluntary organization working to protect the natural and cultural heritage of the Islands.

49. In September 2001, there were numerous reports of sightings of hooded seals in the Turks and Caicos Islands. Out of all those sighted, 5 were found dead on shore, 11 died after rescue or in rehabilitation, 4 have been released and 12 are still alive in rehabilitation.[40]

V. Relations with international organizations and entities

50. The Turks and Caicos Islands were admitted as an associate member of the Caribbean Community (CARICOM) in July 1991. The Territory is also a member of the Caribbean Development Bank and the International Criminal Police Organization (Interpol).

51. UNDP support continues under the 1998-2003 country programme, which includes technical support in excess of $780,000. The net contributor country classification places Turks and Caicos in a category that requires full government cost-sharing in UNDP programmes. However, the Territory also benefits from some UNDP regional programmes, such as the regional disaster response and management project and a programme for technical service development. In addition, UNDP continues to concentrate on small business development and employment creation in the Territory, particularly on its less developed islands. UNDP also provides technical support for capacity-building in the public sectors using the United Nations Volunteers.[41]

52. In April 2001, the consultative workshop "The United Nations Convention on the Rights of the Child" was held in Providenciales. A UNICEF representative said that there is an urgent need in the Caribbean to undertake a programme of legal reform with the purpose of modernizing, rationalizing and consolidating laws affecting children. There are some deficiencies in several areas, including matters related to birth status, custody and access to children — especially when parents are separated, child maintenance, procedures to deal with child abuse, and the administration of juvenile justice (see also para. 31 above).[42]

VI. Future status of the Territory

A. Position of the territorial Government

53. As cited in resolutions of the General Assembly on the Turks and Caicos Islands (see General Assembly resolution 54/90 B, part X), the representatives of the Turks and Caicos Islands stated in 1997 that there was a lack of adequate visible development of the process of self-determination in the Territory. They stated that there was the political will on the part of the territorial leaders for a more advanced Constitution, which would enable an orderly transfer of power to the people of the Turks and Caicos Islands. They stated that the administering Power should accelerate the process of equipping and preparing the people of the Territory to evaluate properly the available options for self-determination and, with that in view, emphasized that the advancement of the political, economic, social and educational institutions in the Territory was of paramount importance (see A/AC.109/2089, para. 29).

B. Position of the administering Power

54. On 8 October 2001, the representative of the United Kingdom made a statement before the Fourth Committee (see A/C.4/56/SR.3), in which she welcomed the opportunity to present her Government's position as administering Power and to report on further progress made towards the modernization and development of the relationship between the United Kingdom and its Overseas Territories.

55. The United Kingdom representative said that the third meeting of the Overseas Territories Consultative Committee had been held in London in September 2001. The meeting had been hosted by Baroness Amos, who was appointed Foreign Office Minister for the Overseas Territories in June 2001. The Consultative Committee provided a forum for structured political dialogue and exchange of views between the elected representatives of the Overseas Territories and Her Majesty's Government. The meeting was an opportunity to continue dialogue on the management of public affairs and future development of the Overseas Territories, and enabled Ministers and Overseas Territories governments to consult on matters such as the process of constitutional review and human rights issues arising from the United Kingdom's international commitments.

56. The representative of the United Kingdom said that the United Kingdom's partnership with Overseas Territories continued to evolve and progress. On 21 June, the Government had introduced to Parliament the British Overseas Territories bill, which would grant British citizenship, with right to abode in the United Kingdom, to citizens from 13 of the United Kingdom's 14 Overseas Territories in fulfilment of a commitment made in the 1999 White Paper on the relationship between the United Kingdom and the Overseas Territories. The bill would also formally change the nomenclature from dependent to overseas Territory to reflect more accurately the nature of the relationship. The United Kingdom and most overseas Territories adopted an Environment Charter on 26 September, which set out 10 guiding principles expressing the key environmental commitments that the international community has adopted. The guiding principles were followed by specific commitments on the part of the United Kingdom and Overseas Territories' governments, indicating how they would work in partnership for the benefit of the environment. It was a good example, the representative of the United Kingdom said, of how progress could be made by working together in an area of mutual interest, which was critical to the future prosperity, well-being and even survival of many of the Overseas Territories and their communities.

57. The representative of the United Kingdom pointed out that, as the record showed, for the United Kingdom, the wishes of the peoples concerned, exercised in accordance with the other principles set out in the United Nations Charter and in other international treaties, are of paramount importance.

The relationship of the United Kingdom with the Territories continued to be based on the following fundamental principles: self-determination; mutual obligations; freedom for the Territories to run their affairs to the greatest degree possible; and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. The representative of the United Kingdom said that she was sure the Special Committee recognized the basic commonality of approach between the British Government and the Committee.

58. Nevertheless, she stated, it was a pity that while there was so much in common in their approaches, that was not always properly reflected in all relevant resolutions, in particular of the Special Committee on decolonization. The United Kingdom welcomed the fact that the annual "Omnibus" resolution stated that "... in the decolonization process there is no alternative to the principle of self-determination". The United Kingdom therefore regretted that the Special Committee continued only to apply that principle selectively. That principle was enshrined in the Charter of the United Nations and the International Covenant on Civil and Political Rights.

59. The United Kingdom, she stated, would continue to work to improve its cooperation with the Special Committee. A representative of the United Kingdom had attended the Regional Seminar of the Special Committee held in Havana in 2001.

60. The United Kingdom welcomed the efforts made by the Special Committee begun under the constructive leadership of Ambassador Don'gi, to pursue informal dialogue with the administering Powers with a view to possible future removal of the Territories from the Committee's list. Careful preparations would be necessary before the United Kingdom could expect substantive progress to be made, but the United Kingdom remained ready to cooperate with the Committee in these efforts.

C. Consideration by the General Assembly

61. On 10 December 2001, the General Assembly adopted resolution 56/72, a consolidated resolution on 11 Non-Self-Governing Territories, section X of which is specifically devoted to the Turks and Caicos Islands.

Notes

[1] The information contained in the present paper has been derived from published reports and from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations.

[2] http://www.fco.gov.uk.

[3] *Press Release* "Baroness Amos and Citizenship", *St. Helena Herald*, 22 March 2002.

[4] Oxford Analytica, 4 February 2002; *Turks and Caicos Free Press*, 7-14 February 2002.

[5] *Turks and Caicos Weekly News*, 15 September 2001.

[6] Official web site of the Organisation for Economic Cooperation and Development (www.oecd.org//dac/), Turks and Caicos Islands government budget, 2000-2003.

[7] *Turks and Caicos Free Press*, 7-14 February 2002.

[8] Economist Intelligence Unit, *Country Profile: Turks and Caicos Islands, 2000/2001*.

[9] Oxford Analytica, 4 February 2002.

[10] *Turks and Caicos Weekly News*, 8-14 April 2001.

[11] NewsEdge, 8 March 2002.

[12] Ibid., 20 January, 13 February, 31 March 2002.

[13] See note 7.

[14] TCI Island Profile (www.tcinvest.tc/tc).

[15] www.tcinvest.tc.

[16] Economist Intelligence Unit, *Country Profile: Turks and Caicos Islands, 2000/2001*.

[17] Ibid.

[18] *Turks and Caicos Weekly News*, 15 September 2001; Oxford Analytica Latin America Brief, 4 February 2002.

[19] *Turks and Caicos Free Press*, 31 January 2002, ibid., 17 January 2002.

[20] Ibid., 3 January, 7 March 2002.

[21] See note 16.

[22] *Turks and Caicos Weekly News*, 7 July 2001, 7 March 2002.

[23] Ibid., 1 September 2001.

[24] Ibid., 7 July 2001.

[25] *1998 Caribbean Basin Profile*.

[26] *Turks and Caicos Weekly News*, 22 September 2001,

14 February 2002, "Legislature providing citizenship to children born out of wedlock to local women already exists".

[27] Ibid., 17-23 March 2001.

[28] *Turks and Caicos Free Press*, 21 February 2002.

[29] *Turks and Caicos Weekly News*, 15 September 2001; *Turks and Caicos Free Press*, 17 January 2002.

[30] *Turks and Caicos Free Press*, 3 January 2002.

[31] *Turks and Caicos Weekly News*, 16 June 2001.

[32] Ibid.

[33] Ibid., 8 September 2001.

[34] See note 25.

[35] See note 32.

[36] *Turks and Caicos Free Press*, 31 January 2002.

[37] http://www.oecd.org//fatf/ctry-orgpages/cctry-tc_en.htm.

[38] Official web site of the United Kingdom Foreign and Commonwealth Office (www.fco.gov.uk/news.newstext.asap?4330). *Turks and Caicos Weekly News*, October 1998.

[39] *Turks and Caicos Weekly News*, 14 July 2001.

[40] Ibid., 22 September 2001.

[41] Ibid., 13-26 January 2001.

[42] Ibid., 28 April 2001.